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THE
ACTS AND RESOLVES,
PUBLIC AND PRIVATE,
OF THE
PROVINCE OF THE MASSACHUSETTS BAY:

TO WHICH ARE PREFIXED

THE CHARTERS OF THE PROVINCE.

WITH

HISTORICAL AND EXPLANATORY NOTES, AND AN APPENDIX.

PUBLISHED UNDER CHAPTER 87 OF THE RESOLVES OF THE GENERAL COURT
OF THE COMMONWEALTH FOR THE YEAR 1867.

VOLUME VIII.,
BEING VOLUME III. OF THE APPENDIX.
CONTAINING
RESOLVES, ETC., 1703-1707.

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ORDERS, RESOLVES, VOTES,
ETC.,

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LEGISLATIVE LIST

FOR

1703-4.

HIS EXCELLENCY JOSEPH DUDLEY,
CAPTAIN-GENERAL, AND GOVERNOR-IN-CHIEF, ETC.*

THOMAS POVEY, Esq.,
LIEUTENANT- OR DEPUTY-GOVERNOR, ETC.

ISAAC ADDINGTON, Esq.,
SECRETARY OF THE PROVINCE.

COUNCILLORS OR ASSISTANTS.†

Of the inhabitants of, or proprietors of, lands within the territory formerly called the Colony of the Massachusetts Bay:—

WAIT WINTHROP, Esq.,
JAMES RUSSELL, Esq.,
SAMUEL LEGG, Esq.,
JOHN HATHORNE, Esq.,

ELISHA HUTCHINSON, Esq.,
SAMUEL SEWALL, Esq.,
WILLIAM BROWNE, Esq.,†
ISAAC ADDINGTON, Esq.,

* For the full title, see vol. VII., p. 331.

† Before the Assembly met, Dudley, perceiving that the deputies chosen were likely not to reelect those councillors who had shown subserviency to the orders of the home government concerning rebuilding the fort at Pemaquid, and in regard to settling a fixed salary upon the governor, informed the Lords of Trade of his apprehension in a letter dated Sept. 15, 1703, in which he declared, "It is every day more apparent that nothing will proceed well here 'till her majesty will please to name her own Council. The best men in the province can have no share in the civil government 'till then." — "*New England, Board of Trade*," vol. 34, p. 197, in *Public Record Office*.

At the opening of the General Court, the new House of Deputies, in response to the Governor's message to proceed in the election of councillors, returned a message in which they declared that each councillor elected should have the votes of a majority of the electors, and moved that this course be adopted this year and for the future as "most agreeable to the charter." In this motion the Council concurred, but the Governor dissented on the ground that the proposed course was contrary to all former usage, and that it might result in a failure to elect the full board of councillors required by the charter; therefore agreeably to his direction the election proceeded "after the former manner and usage."

Upon counting the votes it was found that the following members of the former Board were not elected; viz., John Pyncheon, Nathaniel Thomas, Barnabas Lothrop, John Appleton, and Nathaniel Byfield; and the five following were elected in their stead: Thomas Oakes, Edward Bromfield, John Saffin, John Bradford, and Samuel Hayman. The Governor negatived five of the councillors chosen; viz., Elisha Cooke and Peter Sergeant, of the old Board, and Thomas Oakes, John Saffin, and John Bradford, newly elected. These vacancies were filled on the twenty-eighth, by the election of Samuel Legg, Ephraim Hunt, Samuel Appleton, Nathaniel Paine, and Isaac Winslow, all of whom were approved by the Governor. Sewall records that the election was "not finished 'till about 9 or 10 at night," and adds, that the Governor in his speech to the Assembly alleged as his reason for negativing the five councillors, that some were "poor, one superannuated; some might have served the Queen better than they did." Compare pp. 47, 48, and 64 of Whitmore's *Civil List*; and see Palfrey's *History of New England*, vol. IV., pp. 254, 255, and Sewall's *Diary*, vol. II., pp. 78 and 79, and the Editors' notes.

† "Brown," in the Secretary's list.

JOHN PHILLIPS, ESQ.,
JONATHAN CORWIN, ESQ.,
JOHN FOSTER, ESQ.,
EPHRAIM HUNT, ESQ.,
DANIEL PEIRCE, ESQ.,*

PENN TOWNSEND, ESQ.,
JOHN HIGGINSON, ESQ.,
ANDREW BELCHER, ESQ.,
EDWARD BROMFIELD, ESQ.,
SAMUEL APPLETON, ESQ.

Of the inhabitants of, or proprietors of, lands within the territory formerly called New Plymouth:—

JOHN WALLEY, ESQ.,
JOHN THACHER, ESQ.,

ISAAC WINSLOW, ESQ.,
NATHANIEL PAINE, ESQ.†

Of the inhabitants of, or proprietors of, land within the territory formerly called the Province of Maine:—

ELIAKIM HUTCHINSON, ESQ.,

BENJAMIN BROWNE, ESQ.,‡

JOSEPH HAMMOND, ESQ.†††

Of the inhabitants of, or proprietors of, land within the territory lying between the river of Sagadahoc and Nova Scotia:—

JOSEPH LYNDE, ESQ.

For the Province, at large:—

SAMUEL PARTRIDGE, ESQ.,§

SAMUEL HAYMAN, ESQ.

REPRESENTATIVES OR DEPUTIES.

May 26, 1703 to April 21, 1704.

MAJOR JAMES CONVERSE, SPEAKER.

COUNTY OF SUFFOLK.

Boston, Mr. Elizur Holyoke,||
Capt. Samuel Checkley,
Mr. Thomas Oakes,¶
Capt. Ephraim Savage.
Roxbury, Mr. William Denison.
Dorchester, Mr. Hopestill Clap.**
Milton, Capt. Thomas Vose.
Braintree, Lieut. John Baxter.††
Weymouth, Capt. Stephen French.
Hingham, Lieut. Theophilus Cushing.
Dedham, Capt. Daniel Fisher.
Medfield, Mr. Eleazar Adams.

COUNTY OF SUFFOLK—*Concluded.*

Mendon, Capt. Josiah Chapin.
Wrentham, Mr. Robert Ware.††

COUNTY OF ESSEX.

Salem, Capt. Samuel Gardner,
Mr. Benjamin Lynde.
Lynn, Lieut. Samuel Johnson.§§
Marblehead, Mr. Richard Trevet.||||
Beverly, Mr. Isaac Woodbery.¶¶
Wenham, Mr. Thomas Patch.
Ipswich, Mr. Nehemiah Jewett,
Mr. Nathaniel Knoulton.***

* "Pierce," in the Secretary's list.

† "Payne," in the Secretary's list.

‡ "Brown," in the Secretary's list.

§ "Partridge," in the Secretary's list.

|| Chosen June 1, 1704, in place of Samuel Legg, Esq., who was chosen at the annual town meeting and afterwards elected to the Council.

¶ "Oaks," in the Secretary's list, and "Okes," in the town records.

** "Clapp," in the Secretary's list.

†† "Lient.," in the town records, but "Mr.," in the Secretary's list.

‡‡ Signed "Robard," to the qualifying oaths. According to the town records no choice was made at the town meeting on the sixth of May.

§§ "Lient.," in the town records, but "Mr.," in the Secretary's list.

|||| "Trevott," in the Secretary's list.

¶¶ "Woodbury," in the Secretary's list, but "Woodbery," in the town records, and so subscribed to the qualifying oaths.

*** "Knolton," in the Secretary's list, and "Deacon," and "Knowlton," in the town records.

††† Not sworn until March 14, 1703-4.

COUNTY OF ESSEX — *Concluded.*

<i>Gloucester,</i>	Capt. James Davis.
<i>Topsfield,</i>	Lieut. Ephraim Dorman.*
<i>Andover,</i>	Mr. John Aslebee.†
<i>Bozford,</i>	Mr. John Pebody.‡
<i>Rowley,</i>	Capt. Joseph Boynton.
<i>Newbury,</i>	Capt. Stephen Greenleaf.§
<i>Haverhill,</i>	Mr. John Hassaltine.||
<i>Salisbury,</i>	Mr. John Clough.
<i>Bradford,</i>	Mr. Richard Kimball.¶
<i>Amesbury,</i>	Mr. John Kimble.**

COUNTY OF MIDDLESEX.

<i>Charlestown,</i>	Capt. Samuel Phipps.††
<i>Cambridge,</i>	Mr. Thomas Oliver.
<i>Newton,</i>	Mr. James Trowbridge.
<i>Watertown,</i>	Mr. Joseph Sherman.‡‡
<i>Sudbury,</i>	Mr. John Balcom.§§
<i>Sherburne,</i>	Mr. Thomas Sawin.||||
<i>Frammingham,</i>	Mr. John Haven.¶¶
<i>Marlborough,</i>	Capt. Henry Kerley.***
<i>Malden,</i>	Capt. Joseph Willson.†††
<i>Medford,</i>	Mr. Thomas Willis.
<i>Woburn,</i>	Maj. James Converse.
<i>Reading,</i>	Lieut. Hananiah Parker.†††
<i>Billerica,</i>	Mr. Thomas Richeson.§§§
<i>Chelmsford,</i>	Mr. Nathaniel Hill.
<i>Concord,</i>	Mr. John Wheller.|||||

COUNTY OF HAMPSHIRE.

<i>Springfield,</i>	Lieut. John Hitchcock.¶¶¶
<i>Northampton,</i>	Mr. John Clarke.****
<i>Hatfield,</i>	Mr. Eleazer Frary.††††
<i>Hadley,</i>	Mr. Thomas Hovey.
<i>Westfield,</i>	Mr. Samuel Root.
<i>Suffield,</i>	Capt. Joseph Sheldin.††††

COUNTY OF PLYMOUTH.

<i>Plymouth,</i>	Mr. Nathaniel Thomas, jun.§§§§
<i>Scituate,</i>	Mr. Samuel Clap.|||||
<i>Duxbury,</i>	Mr. Samuel Seabury.¶¶¶¶
<i>Marshfield,</i>	Mr. Samuel Sprague.
<i>Bridgewater,</i>	Mr. Edward Fobes.

COUNTY OF BARNSTABLE.

<i>Barnstable,</i>	Capt. John Otis.
<i>Yarmouth,</i>	Mr. Elisha Hall.
<i>Eastham,</i>	Mr. Samuel Knowles.
<i>Sandwich,</i>	Mr. Shearjashub Bourne.*****

COUNTY OF BRISTOL.

<i>Bristol,</i>	Mr. Nathaniel Blagrove.
<i>Taunton,</i>	Mr. Benjamin Crane.
<i>Rehoboth,</i>	Mr. Nathaniel Brown.
<i>Swanzy,</i>	Mr. Ephraim Perce.†††††

* "Lieut.," in the town records, but "Mr.," in the Secretary's list.

† "Aslebee," in the Secretary's list, and "Aslebe," in the town records.

‡ "Peabody," in the Secretary's list. The town clerk erroneously entered "Lieut. Porley," first, and overwrote the surname, "Pebdy."

§ "Greenleaf," in the Secretary's list and in the town records.

|| "Hasseltine," in the Secretary's list.

¶ The town records are defective, and this name is not in the Secretary's list; but it is subscribed to the qualifying oaths.

** "Kemball," in the Secretary's list, and "Kimball, senior," in the town records.

†† "Phips," in the Secretary's list.

‡‡ "Shearman," in the town records.

§§ "Balcomb," in the Secretary's list, but "Balcom," in the town records.

|||| "Sawen," in the Secretary's list and in the town records; but the signature is clearly as above.

¶¶ "Havens," in the Secretary's list.

*** "Kerly," in the Secretary's list.

††† "Wilson," in the Secretary's list.

†††† "Porter," and "Mr.," in the Secretary's list, "Lieut.," in the town records.

§§§ "Richardson," in the Secretary's list and in the town records.

||||| "Wheeler," in the Secretary's list.

¶¶¶ "Lieut.," in the town records, but "Mr.," in the Secretary's list.

***** "Clark," in the Secretary's list and in the town records.

†††† "Frarey," in the Secretary's list.

††††† Not in the Secretary's list, though in the town records as "Sheldon," and he took and subscribed the qualifying oaths.

§§§§ "Junior," in the Secretary's list, but not in the town records nor in his signature.

|||||| "Clapp," in the Secretary's list.

¶¶¶¶ "Seaberry," in the Secretary's list.

***** Or, "Borne." "Bourn," in the Secretary's list, and "Bourne," in the town records, but the signature is doubtful.

††††† "Pierce," in the Secretary's list, and "Pearce," in the town records.

COUNTY OF BRISTOL — *Concluded.*

Dartmouth, Mr. James Samson.
Little Compton, Capt. William Southworth.*

DUKES COUNTY.

Edgartown, Mr. Benjamin Smith.

ISLAND OF NANTUCKET.

Mr. William Gayer.

COUNTY OF YORK.

York, Capt. Abraham Preble.†
Kittery, Lieut. Charles Frost.‡

JOHN WHITE, *Clerk.*

JAMES MAXWELL, *Doorkeeper to the Governor and General Court*

* From the town records, but not in the Secretary's list although he took and subscribed the qualifying oaths.

† "Prebble," in the Secretary's list.

‡ "Lieut.," in the town records, but "Mr.," in the Secretary's list.

ORDERS, RESOLVES AND VOTES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-SIXTH DAY OF MAY, A. D. 1703.

CHAPTER 1.

ORDER APPOINTING A COMMITTEE TO THANK SOLOMON STODDARD
FOR HIS ELECTION SERMON AND TO REQUEST HIM TO PREPARE
THE SAME FOR THE PRESS.*

Ordered, That William Brown and Samuel Sewall, Esq^{rs}, return the
thanks of the board to the Reverend M^r Solomon Stoddard for his
sermon preached yesterday before the gen^l assembly, and to desire
him to prepare the same for the press. [*Passed May 27.*]

CHAPTER 2.

RESOLVE APPOINTING A COMMITTEE TO EXAMINE AND REPORT
UPON SEVERAL DEEDS, ETC., PRESENTED BY THE INDIANS OF
MARTHA'S VINEYARD. [*Passed May 28.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc.,
of towns, etc.*]

CHAPTER 3.

ORDER POSTPONING TO THE SECOND WEDNESDAY OF THE NEXT
SESSION OF THE GENERAL COURT THE HEARING APPOINTED ON
THE PETITION OF SAMUEL GIBSON.

Ordered, That the hearing of Samuel Gibson appointed to be this
day, be defer'd to the second Wednesday of the next session of this
court. [*Passed June 2.*]

* See resolves, 1692-3, chapter 8, and 1693, chapter 1, and notes.

CHAPTER 4.

ORDER APPOINTING A COMMITTEE TO FURTHER EXAMINE THE DEEDS, PAPERS, ETC., PRESENTED BY THE INDIANS OF MARTHA'S VINEYARD, TO HEAR THE ADVERSE CLAIMANTS AND TO REPORT THEREON, ETC., AND FOR STAYING ALL SUITS AT LAW CONCERNING THE SAME. [*Approved June 2.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 5.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS TO SAMUEL WRIGHT OF NORTHAMPTON, A SOLDIER WOUNDED AND DISABLED IN THE KING'S SERVICE, AND FOR ALLOWING HIM A PENSION OF FORTY SHILLINGS PER ANNUM DURING HIS LIFE.

A PETITION of Samuel Wright of Northampton, setting forth that he, being impress'd as a soldier in the first Indian war, received a shot in his hip bone, and althô he has been at great cost and expence to obtain a cure, the wound remains open to this day, whereof he is very lame and almost unable to labour, praying to be relieved, was sent up from the represent^{ves}. with the vote of that house thereupon; viz.,—

Resolved—That the Sum. of Ten Pounds be Allowed, and Paid out of the Publick Treasury to Samuel Wright the Petitioner, and forty shillings p ann during his naturall life. [*Concurred in by the Council, and approved June 2.*]

CHAPTER 6.

RESOLVE, DECLARING VOID THE AGREEMENT OF THE SETTLERS OF THE TOWN OF LANCASTER IN RESPECT TO THE SUPPORT OF A MINISTER, AND DIRECTING THAT MINISTERIAL TAXES BE LEVIED, ETC., EQUALLY, ACCORDING TO LAW, PASSED, AND SUSPENDED; AND ORDERED THAT ALL PERSONS CONCERNED BE HEARD AT THE NEXT SESSION OF THE GENERAL COURT.

A PETITION of several of the inhabitants of Lancaster relating to an agreement made at the first settlement of said town for the support of their minister, sent up from the representatives with the resolve of that house thereon, in the words following; viz.,—

Resolved—That inasmuch, as the Inhabitants, of the Town of Lancaster within mentioned were driven out by the Enemy, and the Place wholly Deserted: Their former Agreement for the Maintenance of their Minister is now null and void, and They ought to Proceed to Levy their Minister's Rate upon their Inhabitants in eqvall Proportion as the Law Directs. [*Concurred in by the Council, and passed June 2.*]

Ordered, That the vote pass'd yesterday relating to the said town of Lancaster, upon a petition of part of the inhabitants of the said town, be suspended, and that all persons concerned be heard thereupon at the next session of this court. [*Passed June 3.*]

CHAPTER 7.

ORDER FOR EXTENDING THE TIME FOR THE EXPERIMENT WITH FIREWORKS PROVIDED FOR BY THE RESOLVE OF 1702, CHAPTER 15.

WHEREAS the General Assembly at their Session in May. 1702. pas't a Resolve That the Sum of Twenty pounds be allowed out of the publick Treasury for furnishing of Joseph Hill towards makeing an Experiment of Fireworkes for sinking of Ships according to a Proposal by him made. and appoint^d a Committee to see that the Sum afores^d be improved accordingly, So that the experiment be ready to be made by the next Session of the s^d Court. And Whereas the experiment has not hitherto made ready by reason of the shortness of time, and some lets intervening.—

Ordered, That the time for makeing ready of the said Experiment. be enlarged and continued to the next Session of this Court, the former limitation notwithstanding.—[*Approved June 3.*

CHAPTER 8.

ORDER FOR GRANTING TO JOHN SAFFIN A HEARING IN THE COURT OF GENERAL SESSIONS OF THE PEACE OF SUFFOLK COUNTY IN REGARD TO HIS NEGRO SLAVE, ADAM.

A PETITION of John Saffin, Esq^r, relating to a certain negroe man named Adam, that is withheld or taken from him under countenance of authority, not colour of law, as insinuated in the said petition, sent up from the representatives with the act of that house thereon; viz.,—

Ordered—That the Petitioner have a Hearing before this Court on the 2^d Wednesday of the next session.

Sent up for Concurrence. —

JAM^s CONVERSE *Speaker*,—

In Council—June 3^d 1703. Read and not agreed to,—and ordered That the matter be heard before the next Court of General Sessions of the Peace for Suffolk.

IS^t ADDINGTON *Secry*. —

In the House of Representatives June 3rd 1703.

Read and Agreed.

JAM^s CONVERSE *Speaker* —

[*Approved June 3.*

CHAPTER 9.

RESOLVE FOR ALLOWING AND APPROVING THE PROVINCE TREASURER'S ACCOUNTS FROM MAY 27, 1702, TO MAY 26, 1703.

THE ACCOMPT of M^r James Taylour, treasurer and receiver-general of this province, beginning the 27th day of May, 1702, and continued to the 26th day of May, 1703, amonnting to the sum of nineteen thousand four hundred twenty-two pounds four shillings and eleven pence, having been presented and laid before the house of representatives and

inspected by said house, by which it appears there was standing out on the said twenty-sixth day of May, of the several assessments, five hundred and sixty pounds eight shillings and ninepence; and in the hands of John Walley, Esq^r, late commissioner for impost, sixty pounds; and fifty-three pounds eighteen shillings in the hands of M^r William Payne, commissioner of the duties of impost, etc., to be drawn into the treasury and further to be accompted for; as also six hundred and eighty pounds six shillings and fivepence, province bills of publick credit, remaining in the said treasurer's hands, for which he is accomptable, —

Resolved, That the said accompts, in the several articles of receipts and payments therein mention'd, amounting unto the sum of eighteen thousand sixty-seven pounds eleven shillings and ninepence, be and hereby are approved and allowed of, and the said treasurer is hereby discharged of the said sum of eighteen thousand sixty-seven pounds eleven shillings and ninepence. [*Approved June 7.*]

CHAPTER 10.

RESOLVE FOR APPROVING AND ALLOWING THE PROVINCE TREASURER'S ACCOUNTS OF TRADE WITH THE EASTERN INDIANS, FROM OCTOBER 12, 1699, TO MAY 26, 1703.

M^r JAMES TAYLOR his Accompt Of the Trade wth the Eastern Indians. Begining the 12th day of October 1699 and continued unto the 26th day of May 1703. Amounting unto the sum of Four thousand three hundred and four Pounds two Shillings and Eight pence haveing been presented and laid before the house of Representatives and inspected by s^d House By which it appears that the Ballance of said Accompt being Eight hundred Pounds nine Shillings and ten pence Stock remayning in said Taylor's hands which with about One hundred Pounds vulture of feathers and what else is remayning unsold is further to be Accompted for —

Resolved that the said Accompt is Allowed and approved of. [*Approved June 7.*]

CHAPTER 11.

ORDER REQUESTING THE GOVERNOR TO GIVE ORDER FOR HASTENING THE COMPLETION OF THE FORTIFICATIONS ON CASTLE ISLAND, ETC.

Ordered — That a Message be sent up to his Excellency the Governour, That this House earnestly Requests, his Excellency will Please to Give effectuall Order, that all the Plattforms at the Castle be laied, and Guns mounted on Serviceable Carriages without Delay, according to the Resolve of this Court at their last session, and then the Remainder of the Five Hundred Pounds last Granted for fortifying the Castle, Improved in finishing the Works that are already begun, and particularly in the Building of Convenient Lodgings for the Souldiers, which we Desire may be so Contriv'd, as not to Injure their

health, as we fear the arched Vaults Projected by the Engineer for that end will do.

And That his Excellency will Please to make Inquiry whether the Powder Houses, be not So damp as to render the Powder unserviceable; and whether the slighting of the upper Line of Guns looking South East will not Disadvantage the Defence of the Castle? [*Passed June 8.*]

CHAPTER 12.

RESOLVE FOR ALLOWING AND PAYING FIFTY SHILLINGS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, TO PURCHASE A BLANK BOOK, ETC., FOR THE USE OF THE HOUSE.

Resolved, 'That the sum of fifty shillings be allowed and paid out of the publick treasury to M^r. John White, clerk of this house, to purchase a blank book and paper for the use of this house. [*Concurred in by the Council, and approved June 8.*]

CHAPTER 13.

ORDER FOR CONTINUING THE ACT OF 1699-1700, CHAPTER 18, FOR SENDING OF SUCCORS AND ASSISTANCE TO THE NEIGHBORING PROVINCES AND COLONIES AGAINST HIS MAJESTY'S ENEMIES, UNTIL JULY 13, 1703.

THE ORDER pass'd by the council on the second of June curr^t, "that the act for giving succour and assistance to the neighbouring provinces, pass'd at the session of the general assembly begun and held the fifteenth day of October, 1702, to continue to the end of this present session, be and hereby is further continued, to abide and remain in full force unto the end of the session of the general assembly to be convened and held upon the last Wednesday in May, 1704," and sent down to the representatives for concurrence, was concur'd to by that house with an amendment; viz., until the second Tuesday in July next. [*Passed June 8.*]

CHAPTER 14.

RESOLVE FOR FIXING THE PAY OF SOLDIERS IN GARRISON.

THE RESOLVE pass'd by the council the 29th of May last, "that all soldiers posted and to be posted in garrison receive but five shillings per week a man, for pay, whilst they continue to serve in garrison, this to commence where it has been otherwise used, from the 26th of May currant," and sent down to the representatives for concurrence, was concur'd with by that house with an amendment; viz., and that a proportionable abatement be made upon the wages of all officers so posted. [*Passed June 8.*]

CHAPTER 15.

RESOLVE FOR CONTINUING THE RATES AND DUTIES OF IMPOST,
EXCISE AND TONNAGE OF SHIPPING. [*Approved June 8.*]

[*Printed in the note to the act of July 29, 1703.*]

CHAPTER 16.

ORDER FOR REVIVING AND CONTINUING ALL APPEALS TO THE SUPERIOR COURT OF JUDICATURE FROM THE INFERIOR COURT OF COMMON PLEAS WITHIN THE COUNTY OF HAMPSHIRE, IN THE YEARS 1701 AND 1702, TO BE HEARD AT THE SESSION OF THE SUPERIOR COURT NEXT TO BE HELD IN SAID COUNTY.

Ordered That all causes in civil Actions tried in the Inferiour Court of Common Pleas within the County of Hampshire in the years .1701. and .1702. hanging by Appeal to the Superiour Court of Judicature, and not yet heard by reason of the s^d Superiour Courts not sitting in the same County, be revived and Continued, to be heard and Tried at the next Superiour Court of Judicature to sit within the s^d County of Hampshire, And that all processes and Recognisances given for s^d Appeals abide & remain good and effectual in the Law. notwithstanding the interval of the said Court—[*Approved July 10.*]

CHAPTER 17.

RESOLVE APPOINTING A JOINT COMMITTEE TO VIEW AND REPORT ON THE STATE, ETC., OF THE FORTIFICATIONS AT CASTLE ISLAND.

Resolved,—That there be a Committee of both Houses appointed to repair to the Castle to view and report the present State of the worke, what is yet absolutly necessary to be done And to see the Account of the Expençe of the five hundred pounds last Ordered by the General Assembly for that Service —.His Honour the L^d Governour to appoint the time for their going down —

And that John Walley, Andrew Beleher and Samuel Legg Esq^{rs} be a Committee of the Board for that Affair.—

July. 9th 1703/.

Sent down for concurrence/.

Is^a ADDINGTON Sec^y,—

In the House of Representatives

Die Predict⁷ Read

Resolved—a Concurrence. And That Capt. Ephraim Savage, M^r Thomas Willis M^r Nehem^h Jewett, M^r Samuel Clap, M^r Joseph Sherman, M^r Thomas Oakes, and Cap^t Sam^l Phipps. be a Committee to Joine in the affaire aboves^d

JAM^s CONVERSE. *Speaker* —

[*Passed July 10.*]

CHAPTER 18.

ORDER FOR RE-FORMING AND CONTINUING THE COMMITTEE APPOINTED BY THE RESOLVE OF 1692-3, CHAPTER 2, TO REGULATE THE SETTLEMENT OF BROOKFIELD, ALIAS QUABOAG, AND DIRECTING SAID COMMITTEE TO SETTLE THE DIFFERENCE BETWEEN NINE-QUABIN AND THE INHABITANTS OF SAID BROOKFIELD AS TO HIS CLAIM TO LAND THERE. [*Approved July 14.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 19.

RESOLVE FOR REVIVING AND FURTHER CONTINUING THE ACT FOR GRANTING AN EXCISE UPON STRONG DRINK, ETC.

Resolved — That the Act for Granting an Excise upon Stronk Drink &c^a that was in force the last Yeare, be Reviv'd, and further Continu'd untill the 29th Day of June next, and that the Secretary be Desired to Draw a bill accordingly. [*Passed July 16.*]

CHAPTER 20.

ORDER FOR ABATING AND REMITTING THE IMPOST ON A SMALL QUANTITY OF GOODS FROM ANTIGUA, SPARED BY THE PLUNDERERS OF THE KETCH NEWBURY.

A PETITION of Benaiah Titcomb of Newbury was read, setting forth the caption of his vessel by a French ship of war, in her late voyage from Antigua to Newbury, and the great loss he sustained by her being plundered and hostage given for the payment of an excessive price to purchase her out of the hand of the enemy, praying the abatement of the impost of the small quantity of goods brought home in her, amounting to the sum of fifty shillings, —

Ordered, That the said duty of impost, amounting to fifty shillings, be abated and remitted to the petitioner. [*Approved July 16.*]

CHAPTER 21.

ORDER FOR LAYING OUT ANEW THE HIGHWAY BETWEEN NEWBURY AND SALEM, AND APPOINTING A COMMITTEE TO HEAR COMPLAINTS, ETC., IN REGARD TO ENCROACHMENTS, ETC., UPON SAID HIGHWAY, ETC.

July. 16th 1703./- In Council.

UPON PERUSAL of the ancient Record of the high Road from Newbury to Salem, annexed, and hearing the complaint of the Justices of Essex, and seeing the annexed Survey of that Road.

Ordered, That the s^d Road be forthwith reformed, And to that end do strictly inhibit any further Encroachment to be made on any part thereof, And that William Browne, John Hathorne Daniel Peirce, John Appleton, John Higginson, Francis Wainwright Esq^{rs} and Major Symonds Epps, or any ffour of them, (whereof William Browne or John Hathorne Esq^{rs} to be one) with such others as shall be named by the Representatives be and are appoint^d a Committee to sit at Ipswich, sometime in the month of September next to hear the Complaints and take the Answers of the several persons that are transgressours of the s^d order. Giving publique notice of their said Session And to make Report of their doings to the next Session of the General Assembly. —

Sent down for concurrence. — Is^{ts} ADDINGTON *Secry*

In the House of Representatives

July 17th 1703. Read. &

Resolved a Concurrence & that Robert Hale Esq^r & Cap^t Joseph Boynton be of the Comitte for the affair within mentioned.

JAM^s CONVERSE *Speaker*

[*Passed July 17.*]

CHAPTER 22.

RESOLVE FOR PRINTING AND DELIVERING TO THE PROVINCE TREASURER FIVE THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT.

A RESOLVE was sent up from the representatives, in the words following; viz., —

Resolved, That the sum of five thous^d pounds, in bills of credit on this province, be further imprinted and deliver'd to the treasurer, to pass out of and be received into the treasury as the bills of credit last emitted; w^{ch}. resolve being read at the board was concur'd with (the tax passing). [*Approved July 17.*]

CHAPTER 23.

RESOLVE FOR EMITTING THE FURTHER SUM OF FIVE THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT.

Resolved, That the treasurer be directed and impowered to emit, in the bills of credit on this province last made, the sum of five thousand pounds, w^{ch}. are to pass out of and be rec^d. into the treasury as the last ten thousand pounds of the said bills that were emitted, the province accompt to be debited for the said principal of five thousand pounds, with the advance of two hundred and fifty pounds whereat they were received into the treasury. [*Approved July 17.*]

CHAPTER 24.

RESOLVE FOR GRANTING FOUR HUNDRED ACRES OF LAND IN THE TOWNSHIP OF SUFFIELD TO THE USE OF THE MINISTRY. [*Approved July 17.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 25.

ORDER APPOINTING A COMMITTEE TO JOIN WITH A COMMITTEE FROM CONNECTICUT TO PERAMBULATE THE BOUNDARY LINE BETWEEN THIS PROVINCE AND THAT COLONY, ETC., AND DIRECTING THE TOWNS OF ENFIELD AND SUFFIELD TO ASSERT THE BOUNDS AND RIGHTS OF THEIR TOWNS AS GRANTED BY THE GENERAL COURT OF THIS PROVINCE; AND FOR ALLOWING SEVEN POUNDS FOURTEEN SHILLINGS OUT OF THE PROVINCE TREASURY TO THE TOWN OF ENFIELD TOWARDS THE EXPENSES INCURRED BY SAID TOWN IN DEFENCE OF ITS TITLES, ETC. [*Approved July 20.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 26.

ORDER FORBIDDING THE CUTTING OR BORING OF PINE TREES FOR DRAWING TURPENTINE, IN THE TOWNS OF SUFFIELD OR ENFIELD AFTER OCTOBER 1, 1703, UNTIL THE GENERAL COURT SHALL MAKE PROVISION THEREFOR.

UPON COMPLAINT made of very great Havock and waste of the Timber within the Towns of Enfield and Suffield respectively, by the improper Methods taken for the drawing of Turpentine; whereby the Trees are killed, and all the timber, which otherwise might be serviceable to many other uses, likely in a short time to be utterly consumed and destroyed. For Prevention thereof.

Ordered, That from and after the first of October next no pine tree or trees within either of the s^d Towns of Suffield or Enfield be cut or boarded for the drawing of Turpentine, until the General Assembly shall direct to such methods for the doing thereof, as may secure the trees for further benefit, and Improvem^t—[*Approved July 21.*]

CHAPTER 27.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS OUT OF THE PROVINCE TREASURY TO JOHN HARRADEN, LATE COMMANDER OF THE SLOOP BLACKTHORNE, IN CONSIDERATION OF HIS GOOD SERVICES AGAINST THE FRENCH ENEMY THE LAST YEAR.

A PETITION of Cpt. John Harradine praying to be considered for his good service done against the French enemy the last year, was sent up from the representatives with the resolve of that house thereupon; viz.,—

Resolved That the Sum of forty Pounds be allowed and paid out of the publick Treasury to the Petitioner John Harraden in consideration of his good service abovementioned. [*Concurred in by the Council, and approved July 21.*]

CHAPTER 28.

RESOLVE REFERRING TO THE SECOND WEDNESDAY OF THE NEXT SESSION OF THE GENERAL COURT THE HEARING ON THE PETITION OF PENELOPE WINSLOW PRAYING TO BE ALLOWED HER INTEREST IN THE GRANT OF EIGHT HUNDRED ACRES OF LAND ORDERED BY THE GENERAL COURT, NOVEMBER 18, 1702, TO BE LAID OUT TO THE USE OF THE HEIRS OF HERBERT PELHAM AND THOMAS WALGRAVE; AND FOR NOTIFYING EDWARD PELHAM THEREOF. [*Passed July 21.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 29.

VOTE AUTHORIZING SAMUEL MORSE OF SHERBURNE AND THOMAS WABAN OF NATICK, AN INDIAN, TO EXCHANGE LANDS IN DEDHAM AND NATICK, ETC. [*Approved July 21.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 30.

VOTE ON THE REPORT OF A COMMITTEE RECOMMENDING THAT AN ALLOWANCE OF SIXTY POUNDS BE MADE OUT OF THE PROVINCE TREASURY TO JOHN CAMPBELL, POSTMASTER, REDUCING THE SAME TO THIRTY POUNDS, AND EXEMPTING HIM FROM IMPRESSES. TRAININGS AND WATCHES DURING HIS CONTINUANCE IN SAID OFFICE.

THE REPORT of the committee upon the petition of Mr John Campbell, postmaster, sent up from the represent^{ves}. with an amendment for an allowance to be made to him out of the publick treasury of the sum of ten pounds for the time past and twenty pounds for the year ensuing, and that he be freed from impresses, training and watches during his employ^{mt} as postmaster, w^{ch}. was read and, —

Agreed to. [*Approved July 22.*]

CHAPTER 31.

RESOLVE FOR ALLOWING AND PAYING ONE HUNDRED AND NINETY-SIX POUNDS SEVEN SHILLINGS AND FIVEPENCE OUT OF THE PROVINCE TREASURY TO ANDREW BELCHER, TO REIMBURSE HIM WHAT HE ADVANCED FOR THE GOVERNOR'S LATE VOYAGE TO THE EASTWARD, ETC.

A RESOLVE sent up from the representatives, that the sum of one hundred ninety-six pounds seven shillings and fivepence be allowed and paid out of the publick treasury to Andrew Belcher, Esq^r, to reimburse what he advanced for his excellencie's late voyage eastw^d and for what was given to the Indians, according to his accompt exhibited, was read and, —

Agreed to. [Approved July 22.]

CHAPTER 32.

ORDER DIRECTING THE PROVINCE TREASURER TO DEFER DEMANDING OF THE CONSTABLES OF SHERBURNE THE SUM OF SIX POUNDS FOURTEEN SHILLINGS AND NINEPENCE, PART OF THE PROVINCE TAX, UNTIL THE FURTHER ORDER OF THE GENERAL COURT.
[Approved July 24.]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 33.

RESOLVE FOR ALLOWING TWO HUNDRED POUNDS TO JAMES TAYLOR, TREASURER OF THE PROVINCE, FOR HIS SERVICES DURING THE YEAR 1702-3.

Resolved, That the sum of two hundred pounds be allow'd and paid out of the publick treasury to M^r James Taylour, province treas^r, for his service in the said office the year last past. [Approved July 24.]

CHAPTER 34.

RESOLVE FOR ALLOWING AND PAYING OUT OF THE PROVINCE TREASURY EIGHT POUNDS, EACH, TO ELISHA HUTCHINSON, JOHN PHILLIPS AND JAMES CONVERSE, FOR THEIR SERVICES IN ATTENDING THE GOVERNOR ON HIS VOYAGE TO TREAT WITH THE EASTERN INDIANS.

Resolved — That there be Allowed and Paid, out of the Publick Treasury to Elisha Hutchinson, John Phillips, and James Converse Esq^s to each of them the Sumⁿ. of Eight Pounds for their time, and Expences, in Waiting on his Excellency the Governour, in his late Journey and voyage, to Treat with the Eastern Indians. [Approved July 24.]

CHAPTER 35.

RESOLVE FOR ALLOWING FOURTEEN POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, FOR HIS SERVICES FOR THE CURRENT YEAR.

Resolved, That the sum of fourteen pounds be allow'd and paid out of the publick treasury to John White, clerk of this house, for his service in the s^d office the year curr^t. [*Approved July 24.*]

CHAPTER 36.

RESOLVE FOR ALLOWING AND PAYING SIX POUNDS OUT OF THE PROVINCE TREASURY TO WILLIAM STANTON, PURSER OF THE SHIP GOSPORT, FOR HIS EXTRAORDINARY EXPENSES ON HIS VOYAGE TO THE EASTWARD WITH THE GOVERNOR.

Resolved — That the Sum of Six Pounds be Allowed and Paid out of the Publick Treasury to M^r William Stanton, Purser of Her Majesties ship the Gosport for his Extraordinary Expences in Beer, Wood Candle &c when the said Ship waited on his Excellency the Governour in his late Voyage Eastward. [*Approved July 24.*]

CHAPTER 37.

RESOLVE FOR ALLOWING THIRTY POUNDS TO JAMES MAXWELL FOR HIS SERVICES AS DOORKEEPER TO THE GOVERNOR AND GENERAL COURT FOR THE YEAR ENDING JUNE 8, 1703.

Resolved, That the sum of thirty pounds be allowed and paid out of the publick treasury to M^r James Maxwell, doorkeeper to his excy. the gov^r and this court, for his service the year last past, expiring the eighth day of June last. [*Approved July 24.*]

CHAPTER 38.

RESOLVE FOR ALLOWING AND PAYING TWENTY-TWO SHILLINGS OUT OF THE PROVINCE TREASURY TO SAMUEL TYLEY, INN-KEEPER, FOR ENTERTAINING THE JOINT COMMITTEE ON THE ACCOUNTS OF JOHN USHER, LATE TREASURER OF NEW ENGLAND, ETC.

A RESOLVE sent up from the represent^{ees} for the allowing and paying of twenty-two shillings out of the publick treasury to Samuel Tyley for the charge of a comm^{tee} of both houses that sat there upon M^r Usher's accounts, was read and,—
Agreed to. [*Approved July 26.*]

CHAPTER 39.

ORDER DIRECTING THE PROVINCE TREASURER TO RECEIVE, ETC., OF EDWARD BROMFIELD THREE UNENDORSED BILLS OF CREDIT, AMOUNTING IN ALL TO FOUR POUNDS AND FIVE SHILLINGS.

AN ORDER was sent up from the represent^{ves} that the treasurer receive of Edward Bromfield, Esq^r, three indented bills of credit of the late colony of the Massachusetts Bay, which are not endorsed by the treas^r, one of three pounds, one of twenty shillings, and another of five shillings, and pay for the same the sum of four pounds and five shillings. [*Concurred in by the Council, and approved July 26.*]

CHAPTER 40.

RESOLVE FOR ALLOWING AND PAYING SEVEN HUNDRED POUNDS FOR DISCHARGING THE DEBT CONTRACTED IN FORTIFYING CASTLE ISLAND AND FOR FINISHING THE FORTIFICATIONS, ETC.

Resolved That the Sum. of Seven Hundred Pounds be Allowed, and Paid out of the publick Treasury for Discharging the Debt already contracted in fortifying Castle-Island, and for the finishing the Works, on the S^d Island, agreeable to the Computation of Col^o Romer Her Maj^{ties} Engineer dated July 22^d 1703. which lies before this Court, and That Thomas Brattle Esq^t be Impowered to Receive and Lay out the s^d sum. accordingly, as the s^d Engineer shall Direct. [*Approved July 27.*]

CHAPTER 41.

ORDER FOR FURNISHING THE GARRISONS AT SACO AND CASCO BAY WITH BEDDING, ETC.

Ordered — That there be Twenty suitable Beds, and Bolsters, with a Blanket to each Bed, Procured at the Publick charge for the Lodging of the Souldiers at the Garrisons at Saco and Casco, there having been no Bedding hitherto Provided for that Occasion. [*Approved July 28.*]

CHAPTER 42.

ORDER FOR DISCHARGING AND GIVING UP THE BONDS GIVEN TO THE COMMISSIONERS AND RECEIVERS OF IMPOST UNDER THE ACT OF NOVEMBER 21, 1702, FOR SECURING PAYMENT OF THE ADDITIONAL DUTIES ON RUM, WINE, OR OTHER SPIRITS.

WHEREAS this Court in Lieu of certain additional Dutys of Impost granted to Her Majesty by an Act of the General Assembly begun and held at Cambridge the 15th of October 1702. to continue for one

year; which is now near expired. Have granted unto Her most Excellent Majesty certain Dutys of Impost and Tunnage of Shipping, to be collected and paid until the Twenty ninth day of June in the year 1704. and for that cause have laid down the further takeing or requiring payment of the said additional Dutys. And Forasmuch as the Act did provide that Bond with Sufficient Security should be given for paym^t of the s^d additional Dutys, one halfe thereof in Three months from the time of Entring the Goods, and the other halfe thereof within the Space of Six months next after the time for the first payment —

Ordered, That every person, who since the laying of the s^d Additional Dutys hath imported any Wine, Rhum or other Spirits, And given Bond in the Office for payment of the said Duties at the times therein mentioned as the Law directs, & hath not actually paid the same nor the time expired therefore over and above the original and first duty. Upon payment of Five shillings more for each pipe of Wine, hogshead of Rhum or other Spirits so imported and duely entred, still remaining in his own hands undisposed of, unto the Officers appointed to receive the same, on or before the Fourteenth day of August next coming shall be discharged of any further payment for the same; such person exposing to the view of the Officer, the several pipes & hogsheads of Wine, Rhum or Spirits remaining and making Oath that they are the very same which he entred, and still remain his own proper Goods, not bargained for or sold to any other person. And the Officer on receipt of Five shillings for each Pipe of Wine and hogshead of Rhum or Spirits as afores^d is hereby Ordered to deliver up the Bond given for payment of the Additional Dutys for the same. And shall also proceed and do the like for any Rhum or Spirits distilled within the Province and Entred with him upon Receipt of one penny p^r Gallon for each Gallon of the same — [*Approved July 29.*]

CHAPTER 43.

ORDER FOR ADJOURNING TO THE FIRST MONDAY IN SEPTEMBER, THE SUPERIOR COURT, ETC., APPOINTED TO BE HELD AT SPRINGFIELD THE SECOND THURSDAY IN AUGUST, 1703.

Ordered — That the Superiour Court of Judicature to be holden at Springfield within the County of Hampshire upon the Second Thursday in August next in this present year. 1703. Be and hereby is Adjourn^d unto the first munday in the month of September following, [*Approved July 30.*]

CHAPTER 44.

ORDER FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO JOHN PARTRIDGE OF PISCATAQUA, FIELD-MARSHAL OF THE FORCES AT THE EASTWARD IN 1692, AND THIRTY POUNDS MORE UPON HIS PRODUCING A CERTIFICATE FROM THE TREASURER OF NEW HAMPSHIRE THAT HE HAS RECEIVED FORTY-EIGHT POUNDS EIGHTEEN SHILLINGS OUT OF THE TREASURY OF THAT PROVINCE.

A PETITION of John Patridge of Piscataqua, sometime field-marshal of the forces employed to the eastw^d, praying payment for expences

on the cure and subsistence of wounded men and for his wages, was sent up from the represent^{ves.} with the act of that house thereupon; viz., —

Ordered That the Sum. of Twenty Pounds be at present allowed and Paid out of the Publick Treasury to the s^d John Partridge, and upon his Producing a Certificate, from the Treasurer of New Hampshire, that he has Received the sum of forty eight pounds & eighteen shillings out of their Treasury, upon the acc^t aforementioned, That then the sum of Thirty Pounds be further Allowed and Paid out of the Publick Treasury to the s^d Petitioner. [*Concurred in by the Council, and approved July 30.*]

CHAPTER 45.

RESOLVE FOR ALLOWING AND PAYING OUT OF THE PROVINCE TREASURY TO JOHN BULL OF HINGHAM, A SOLDIER WOUNDED IN THE NARRAGANSETT WAR, FOUR POUNDS FOR THIS PRESENT YEAR AND A PENSION OF FORTY SHILLINGS PER ANNUM DURING HIS LIFE.

A PETITION of John Bull of Hingham, setting forth that he is lame and unable for labour by reason of a wound rec^d in the publick service in the former war and praying some allowance, was sent up from the represent^{ves.} with the resolve of that house thereon; viz., —

Resolved — That there be Allowed and Paid, out of the Publick Treasury unto John Bull the Petitioner the Sum of four Pounds for this present Year, and forty Shillings ~~p~~ annum during his Naturall life, after the s^d Yeare. [*Concurred in by the Council, and approved July 30.*]

CHAPTER 46.

RESOLVE FOR ALLOWING AND PAYING THREE HUNDRED POUNDS TO JOSEPH DUDLEY IN PART FOR HIS SERVICES AS GOVERNOR DURING THE CURRENT YEAR.

In the House of Representatives. July 23rd 1703

Resolved — That the Sum: of Three Hundred Pounds be Allowed and Paid out of the first Part of the Tax Granted this Session, to His Excellency Joseph Dudley Esq: Cap: Generall, and Governour in Chief of this Her majestie's Province, in part for his Support in the management of the Government thereof, the Year currant —

Sent up for Concurrence.

JAM^s CONVERSE *Speaker*

In Council. July. 30th 1703-4.

This Resolve haveing been sent back to the Representatives with a Message from the Board to move their reconsideration thereof; It being very much below the dignity of his Exc^{ys}. Station and dishon^{re} to the Governm^t

The Representatives not seeing fit to have reconsideration thereof. The Council desire his Excell^{ty}s acceptance of the said Sum of Three hundred pounds in part of his Salary. In hopes the Assembly in another Session will have further consideration of that matter And do that which is proper and Hon^{ble} for the Governm^t

Is^a ADDINGTON *Sec^{ry}*. —

[*Approved July 30.*]

CHAPTER 47.

ORDER REQUIRING THE JUSTICES OF THE SUPERIOR COURT OF JUDICATURE, ETC., TO REPORT TO THE ASSEMBLY THE METHOD OF PROCEEDING IN THAT COURT UPON APPEALS FROM JUDGMENTS ON NONSUIT AND ABATEMENT; AND FOR FURTHER HEARING THE PETITION OF ELISHA HUTCHINSON PRAYING TO BE RELIEVED FROM THE JUDGMENT GIVEN AGAINST HIM IN SAID COURT, AT THE SUIT OF THOMAS COOPER.

THE ORDER pass'd by the represent^{ves}. upon the petition of Elisha Hutchinson, Esq^r, praying to be relieved against a judgem^t given against him at the suit of Thomas Cooper in the last superiour court of judicature, read yesterday, being in the words following; viz.,—

Ordered, That the judgem^t of the superiour court mention'd in the s^d. petition be made null and void, and that an act be made by this court to instate him, the petitioner, in the estate he is ousted of by the s^d. court. W^{ch}. order being again read at the board upon the question put was not consented to, but ordered that the method of proceeding in the superiour court upon appeals upon nonsuits and abatem^{ts}. be reported by the judges of that court and the law thereupon consulted in the next sitting of the gen^l. assembly, that direction may be given therein and that the petitioner may then be further heard; and the same being sent down to the represent^{ves}. was concur'd with by that house. [*Approved July 31.*]

CHAPTER 48.

RESOLVE DIRECTING THE COMMITTEE APPOINTED TO SIGN, ETC., THE BILLS OF CREDIT EMITTED UNDER THE ACT OF NOVEMBER 21, 1702, TO CAUSE TO BE PRINTED AND TO SIGN AND DELIVER TO THE PROVINCE TREASURER THE FURTHER SUM OF FIVE THOUSAND* POUNDS IN BILLS OF CREDIT, AND FOR ALLOWING TWENTY-FIVE POUNDS TO EACH MEMBER OF SAID COMMITTEE FOR HIS SERVICES.

WHEREAS this Court have Resolved that the Sum^y of five Thousand Pounds of Bills of Credit on this Province shall be further Imprinted, and Emitted.

Resolved — That James Russell Elisha Hutchinson, Nathaniel Byfield, John Leverett, and Samuel Legg Esq^r, the Comitte Imploied, to Imprint the last Ten Thousand Pounds of Bills of Credit, be a Committee to Take care for the Imprinting Signing and Delivering to the Treasurer, five Thousand Pounds of Bills of Credit accordingly, Taking Receipt for the Same, And that there be allowed and Paid out of the Publick Treasury the Sum of Twenty five Pounds to each one of the s^d Committee, for their Service done and to be done as afores^d [*Approved July 31.*]

* In both sets of the Council Records this amount is given as two thousand pounds; but see chapter 22, *ante*.

CHAPTER 49.

RESOLVE FOR ALLOWING AND PAYING ONE HUNDRED POUNDS TO THOMAS POVEY, LIEUTENANT-GOVERNOR AND COMMANDER OF THE CASTLE, TOWARDS HIS SUPPORT FOR THE CURRENT YEAR.

Resolved that the Sum of One hundred pounds be allowed, and paid out of the Publick Treasury to y^e Hon^{ble} Thomas Povey Esq^r L^t Gouverno^r of this her Majesties Province, & Com^{and} of the Castle, towards his support in the publick Service in the year currant. [*Approved July 31.*]

CHAPTER 50.

RESOLVE FOR ALLOWING FIFTY POUNDS, EACH, TO ISAAC ADDINGTON, SAMUEL SEWALL, JOHN HATHORNE, JOHN WALLEY AND JOHN LEVERETT, JUSTICES OF THE SUPERIOR COURT, ETC., FOR THEIR SERVICES FOR ONE YEAR, BEGINNING AT THE DATE OF THEIR COMMISSION.

WHEREAS this House at their Session begun the 15th of Octob^r last, Passed a Resolve Granting an Allowance to the Honorable the present Judges of the Superiour Court, which Resolve was not Concurred with by the Board, and So the S^d Allowance was not, neither can be drawn out of the Treasury by vertue thereof.

Resolved—That there be Allowed and Paid out of the Publick Treasury unto the Honorable Isaac Addington, Samuel Sewall, John Hathorne, John Walley, and John Leverett Esq^{rs} to each of them the Sum. of Fifty Pounds, for their Service as Judges of the Superiour Court for one Year beginning from the Date of their Commission. [*Approved July 31.*]

CHAPTER 51.

RESOLVE FOR REQUIRING EXECUTORS TO FILE BOND, RETURN INVENTORY, ETC., AND FOR EXEMPTING THEM FROM PERSONAL LIABILITY FOR DEBTS. [*Approved July 31.*]

[*Printed in the note to the act of November 22, 1703-4.*]

CHAPTER 52.

RESOLVE FOR PAYING FIVE POUNDS AND ELEVEN SHILLINGS OUT OF THE PROVINCE TREASURY TO EDWARD TOOGOOD OF PORTSMOUTH, IN FULL OF HIS ACCOUNT FOR SUBSISTING SOLDIERS, ETC., IN THE PROVINCE OF MAINE IN THE YEAR 1689; AND FOR GRANTING HIM AN ADDITIONAL ALLOWANCE OF ONE POUND FOR HIS SERVICES IN ATTENDING THE GOVERNOR TO PEMAQUID.

AN ACCOMPT of Edw^d Togood for subsisting of soldiers posted in the province of Mayn in the year 1689, and for pasturing of troopers'

horses, was sent up from the represent^{ves.} with the vote of that house thereon; viz., —

Resolved — That the sum of Five Pounds and eleven shillings be Paid out of the Publick Treasury to Edward Toogood of Portsmouth or his order in full of the acc^t on the other side, and one Pound more for his attending his Excellency to Pemaquid the last summer. [*Concurred in by the Council, and approved July 31.*]

VOTES AND ORDERS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE FIRST DAY OF SEPTEMBER, A. D. 1703.

CHAPTER 53.

VOTE REQUESTING THE GOVERNOR TO URGE THE GOVERNMENTS OF
CONNECTICUT AND RHODE ISLAND TO SEND REINFORCEMENTS TO
AID IN THE WAR WITH THE INDIANS.

HIS EXCELLENCY having intimated that he has written to the sev^{ll}
governm^{ts} of Connecticutt and Rhoad Island to obtain a quota of men
for support of the war with the Indians and has not yet rec^d. any satis-
factory answer thereto, a *vote* pass'd that his excy^y be desired again in
the most pressing manner to urge those governm^{ts} on that head, etc.
[*Passed September 3.*]

CHAPTER 54.

ORDER FOR REMITTING THREE POUNDS TEN SHILLINGS OF THE
EXCISE DUE BY THOMAS WAFFE.

A PETITION of Cpt. Thomas Waffe, praying an abatem^t of three
pounds ten shill^{gs}. of his last year's excise, he holding his licence but
about the space of ten weeks, for w^{ch}. he paid the like sum, having been
sett at seven pounds the year, was sent up from the represent^{ves}. with
the *order* of that house thereon; viz., that the sum of three pounds
ten shillings be abated the petitioner accordingly. [*Concurred in by
the Council, and approved September 7.*]

CHAPTER 55.

VOTE FOR APPOINTING THURSDAY, SEPTEMBER 23, 1703, AS A DAY
OF FASTING AND PRAYER.

A VOTE was sent up from the represent^{ves}. that a day of solemn fast-
ing and prayer be speedily appointed and observed throughout this
province, and a proclamation was drawn up for the appointm^t of
Thursday the 23^d curr^t. for that service, and advised and consented to
by the council. [*Passed September 7.*]

CHAPTER 56.

ORDER ADJOURNING AND CONTINUING TO THE NEXT SESSION THE SEVERAL HEARINGS TO BE ATTENDED THE PRESENT SESSION OF THE GENERAL COURT.

Ordered, That all hearings set to this present session be and hereby are adjourn'd and continued to the same day in the next session of this court, and others not set to a certain day be continued at large. [*Approved September 9.*]

CHAPTER 57.

ORDER FOR REGULATING THE DELIVERY OF LETTERS BY SHIP-MASTERS. [*Approved September 9.*]

[*Printed in the notes to the acts of the year 1699-1700.*]

ORDERS, RESOLVES, ETC.

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-SEVENTH DAY OF OCTOBER, A. D. 1703.

CHAPTER 58.

ORDER APPOINTING A HEARING ON SEVERAL PETITIONS RELATING
TO THE GREAT DRAWBRIDGE OVER MILL CREEK IN BOSTON, AND
FOR NOTIFYING THE SELECTMEN, ETC.

SEVERAL PETITIONS presented to the board relating to the great drawbridge within the town of Boston, the carriage whereof is some time since fallen down, having been read,—

Ordered, That there be a hearing of that matter before the whole court upon Wednesday the third of Novem^r next, and that the selectmen and others concerned be notified to attend. [*Concurred in by the House, and passed October 29.*]

CHAPTER 59.

ORDER FOR ABATING THE DUTIES OF IMPOST ON FORTY-FIVE PIPES
OF MADEIRA WINE DAMAGED ON BOARD THE SHIP BIFRONS
DRIVEN ASHORE AT PISCATAQUA.

THE PETITION of David Jeffries, merchant, on behalf of himself and other, the owners of the ship Bifrons, Thomas Holland, commander, lately come from Madera, praying an abatement of the duties of impost for about forty-five pipes of Madera wine imported in said ship, which arrived at Piscataqua, being constrained by contrary winds to put in there, and was cast on shore by a tempest and the wines much leak'd out, chill'd and mixt with salt water, was sent up from the represent^{res} with their vote thereon in the words following; viz^t,—

Ordered — That the Praier of the Petition on the other Side be Granted and the Duties of Impost on the Wines within mentioned be Abated accordingly [*Concurred in by the Council, and approved October 30.*]

CHAPTER 60.

ORDER APPOINTING A HEARING* ON THE PETITION OF WILLIAM MERRICK, AGENT FOR THE TOWN OF HARWICH, RELATING TO SOME OF THE INHABITANTS OF SAID TOWN WHO REFUSE TO PAY THEIR TOWN RATES, ON THE CLAIM THAT THEY BELONG TO MANAMOI, AND FOR NOTIFYING SAMUEL SPRAGUE, ETC. [*Passed November 1.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 61.

RESOLVE FOR ALLOWING AND PAYING THE FURTHER SUM OF THIRTY-FIVE POUNDS OUT OF THE PROVINCE TREASURY TO THOMAS BRATTLE, IN FULL FOR HIS SERVICES IN MANAGING THE EXPENDITURE OF THE MONEY GRANTED TOWARDS FORTIFYING CASTLE ISLAND.

Resolved—That the Sum of Thirty and five Pounds be Allowed and Paid out of the Publick Treasury to Thomas Brattle Esq^r as a further Consideration, and in full, for his service in Laying out the money Granted for fortifying Castle Island. [*Approved November 2.*]

CHAPTER 62.

ORDER DIRECTING THAT THE HEARING UNDER THE RESOLVE OF NOVEMBER 1,† ON THE PETITION OF THE TOWN OF HARWICH, BE HAD ON THE THIRD DAY OF NOVEMBER, 1703. [*Passed November 3.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 63.

ORDER DIRECTING THE JUSTICES OF THE INFERIOR COURT OF COMMON PLEAS FOR THE COUNTY OF MIDDLESEX TO HEAR THE APPEAL OF SAMUEL GIBSON OF CAMBRIDGE, PLAINTIFF, *VERSUS* JOHN GOVE, AND TO ADJUDICATE SAID ACTION ON ITS MERITS.‡

UPON CONSIDERATION of the Petition of Samuel Gibson of Cambridge, Complaining of the undue proceeding in a Suit commenced against him in the year 1694 : before Joseph Lynde Esq^r Justice of the Peace, by John Gove of the said Town of Cambridge, for Trespass ; And remov^d by Appeal unto the Inferiour Court of Common Pleas

* This hearing was had November 3, by agreement of parties, although the time fixed by this order was November 8. See chapter 62, *post*.

† Chapter 60, *ante*.

‡ See resolve, 1702-3, chapter 8.

within the County of Middlesex. There having been no further hearing, than as to the Plea made by the Defend^r in abatement —.

Ordered, That there be a full hearing of the said cause upon the merits thereof at the next Inferiour Court of Common Pleas within the County of Middlesex. And the said Court is hereby directed and Impoured, to receive and hear the said Cause, And to do therein that which to Justice pertaineth according to Law.

The Petitioner Samuel Gibson to cause the said John Gove to be served with a Summons, issueing forth of the Clerk^s Office of the said Court; fifteen days before the Courts sitting, Requiring him to appear and Answer.—[*Approved November 5.*]

CHAPTER 64.

ORDER DIRECTING THAT THE SIX FAMILIES NAMED IN THE PETITION OF THE TOWN OF HARWICH* PAY THEIR ARREARS OF ALL PAST CHARGES IN THE SAID TOWN, AND THAT THEY CONTINUE TO PAY THEIR RESPECTIVE QUOTAS TO ALL FUTURE TOWN CHARGES UNTIL THERE BE A MINISTER SETTLED AT MANAMOIT, ETC. [*Approved November 6.*†]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 65.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS OUT OF THE PROVINCE TREASURY TO JOSEPH BEAN,‡ WOUNDED IN THE KING'S SERVICE AT FORT MARY, AND FOR ALLOWING HIM A PENSION OF THREE POUNDS PER ANNUM, AND FOR EXEMPTING HIM FROM THE PAYMENT OF PROVINCE POLL-TAXES DURING HIS LIFE.

Resolved — That the Sum of Ten Pounds be Allowed and Paid out of the Publick Treasury to Joseph Bean, the Petitioner as Smart Money, & the Sum of Three Pounds ~~p~~ annum as a Stipend, and that he be Exempted from being Rated for his Poll in the Province Tax during his Naturall life. [*Approved November 16.*]

CHAPTER 66.

RESOLVE FOR THE FURTHER ENCOURAGEMENT OF THE FORCES DETACHED FOR SERVICE AND ACTUALLY ENGAGED AGAINST THE INDIAN ENEMY.

In the House of Representatives Novem^r 9th 1703.

FOR A FURTHER ENCOURAGEMENT to the Forces, that are, or shall be Detached, and march forth against the Indian Enemy.

* See chapters 60 and 62, *ante*.

† This date is taken from the original paper in the archives, although the date given in the record is November 8.

‡ See note to resolve, 1702, chapter 38.

Resolved—That the Sum of Ten Pounds be Allowed, and Paid out of the Publick Treasury, for every Scalp of an Indian Enemy kill'd in fight, that is ten Years of age, or more which shall be Taken and brought in within the space of four months next ensuing to be *equally* Shared to, and among the officers and Souldiers, of the Party then Engaged.

And the ascertaining that Such Scalp or Scalps are bona fide the Scalp of an Indian Enemy kill'd in fight; and the Penalty on Such as shall Produce, any Scalp not being the Scalp of an Indian Enemy Slain in fight with Intent to Deceive, and Obtain the Reward above-mentioned. And the Disposition of the S^d Penalty, Shall be the same as is by Law Provided for Scalps Taken by Volunteers.

Consent^d to with the alteration of the word [*Equally**], to [proportionably]

Is^d ADDINGTON Sec^{ry}.—

[*Passed November 16.*]

CHAPTER 67.

RESOLVE FOR ALLOWING AND PAYING SIXTY POUNDS TO SAMUEL WILLARD, VICE-PRESIDENT OF HARVARD COLLEGE, FOR HIS SERVICES FOR THE YEAR ENDING OCTOBER 30, 1703.

Resolved, That the sum of sixty pounds be allowed and paid out of the publick treasury to the Rev^d M^r. Samuel Willard, vice-president of Harvard College, for his service the year past, expiring the 30th day of last month. [*Approved November 17.*]

CHAPTER 68.

RESOLVE FOR ALLOWING AND PAYING FIVE POUNDS OUT OF THE PROVINCE TREASURY TO THOMAS HAPGOOD OF MARLBOROUGH, A SOLDIER WOUNDED IN THE KING'S SERVICE.

A PETITION of Thomas Hapgood of Marlboro, wounded in the publick service, was sent up from the represent^{ves}. with the resolve of that house thereon; viz^t, —

Resolved — That the Sum. of five Pounds be Allowed, and Paid out of the publick Treasury to Thomas Hapgood the Petitioner. [*Concurred in by the Council, and approved November 17.*]

CHAPTER 69.

RESOLVE FOR ALLOWING AND PAYING FIFTY POUNDS OUT OF THE PROVINCE TREASURY TO LIEUTENANT-COLONEL JOHN MARCH IN CONSIDERATION OF HIS BRAVE CONDUCT AND THE WOUNDS HE RECEIVED IN THE DEFENCE OF THE FORT AT CASCO BAY DURING THE ATTACK BY THE FRENCH AND INDIAN ENEMY.

Resolved — That the Sum of Fifty Pounds be Allowed and Paid out of the publick Treasury to Lientenant Colonel John March in Consid-

* Referring to this word in Italics, above.

eration of the brave Defence which by his Conduct was made of Her Maj^{ties} Fort at Casco-Bay, when lately Attack't by the french, and Indian Enemy, and of the Wounds, and Damage he then Received.
[Approved November 20.]

CHAPTER 70.

ORDER FOR A MESSAGE TO THE COUNCIL FOR THE APPOINTMENT OF A DAY OF PUBLIC THANKSGIVING AND A DAY OF PUBLIC PRAYER AND FASTING, THE GOVERNOR AND COUNCIL TO APPOINT THE TIME AND ASSIGN THE OCCASIONS.

In the House of Representatives Novem^r 12th 1703.

Ordered — That a Message be sent up to the Board, That a Day of Public Thanksgiving, be Appointed, and attended as soon as conveniently may be, and a Day of fasting with Prayer, Some time after; throughout the severall Towns, and Precincts of this Province, and that It be left with His Excellency, and the Board to appoint the Time, and assign the various Occasions for the Same [Concurred in by the Council, as to the thanksgiving, November 22; and as to the fast, January 24, 1703-4.]

CHAPTER 71.

ORDER FOR A MESSAGE FROM THE REPRESENTATIVES TO THE GOVERNOR, REQUESTING A REDUCTION OF THE GARRISON AT CASTLE ISLAND UNTIL MARCH 15, 1703-4.

In the House of Representatives. Novem^r 23th 1703.

Ordered — That a Message be Sent up to His Excellency the Governour, That this House Desires the Number of men which shall be Posted at the Castle from this time to the fifteenth Day of March next may not Exceed Thirty in Officers and souldiers which They apprehend a number sufficient.

And shall not Allow Pay or subsistence to any more.

JAM^s CONVERSE *Speaker*

Die p^dict. Read * [Passed November 23.]

* This brief memorandum of the first reading of this message from the House is supplemented by the following entry in the Executive Records of the Council, which gives to the whole proceeding such a character as entitles it to a place with the concurrent resolves of the Assembly — the "article" referred to by the Governor being a repetition of the above suggestion as to reducing the garrison, contained in the declaration of grievances or "particulars to be redressed" sent up by the House December 2, 1703: —

"As to the article of reducing the number of souldiers at the Castle to thirty with officers, until the middle of March next, his Excell^y intimated that he would consider to make the charge as easy for the province as might be consistent with her maj^{ty}s honour, and the safety of the place." Gov. Dudley's declaration to the Council, December 13, 1703.

CHAPTER 72.

RESOLVE FOR AN ADDITIONAL ALLOWANCE OF SIXTEEN POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, FOR HIS SERVICES DURING THE CURRENT YEAR.

A RESOLVE pass'd in the house of represent^{ves}; viz^t, That the sum of sixteen pounds be further allow'd and paid out of the publick treasury to M^r John White, clerk of that house, for his service the year curr^t; which resolve being read at the board was agreed to by the council. [*Approved November 23.*]

CHAPTER 73.

RESOLVE FOR REMITTING THE IMPOST ON WINE SAVED OF THE CARGO OF THE SHIP JOHN, AND THE DUTY OF TONNAGE ON SAID SHIP, WHICH WAS CAST AWAY ON THE ROCKS OFF PEMBERTON ISLAND IN NANTASKET BAY.

A PETITION of Andrew Belcher, Esq^r, on behalf of the owners of the ship John, of Exon, Zechariah Cawley, master, coming address'd to himself with the lading of salt and wine from Lisbon and Fyal, being lately cast away on the rocks lying off Pemberton's Island within Nantasket Bay, and her lading of salt and wine lost, only seventeen pipes and one hogshead thereof saved, which, being fill'd up, makes but fourteen pipes, praying that the duties of impost for the said wines, as also the duty of tonnage for the said ship, if possible she may be gotten up, may be remitted, was sent up from the represent^{ves} with the resolve of that house thereupon; viz., —

Resolved — That the Prayer of the Petition on the other Side be Granted and Order given to the Co^mmiss^r of Impost accordingly. [*Concurred in by the Council, and approved November 25.*]

CHAPTER 74.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF BROOKFIELD, TOWARDS THE MAINTENANCE OF THE MINISTRY DURING THE CURRENT YEAR.

CONSIDERING the Extraordinary Impoverishing Circumstances the Town of Brookfield is under by means of the present war.

Resolved — That the Sum of Twenty Pounds be Allowed and Paid out of the Publick Treasury towards the support of the Ministry in the s^d Town of Brookfield for the Year Currant [*Approved November 26.*]

CHAPTER 75.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF DEERFIELD, TOWARDS THE MAINTENANCE OF THE MINISTRY DURING THE CURRENT YEAR.

CONSIDERING the Extraordinary Impoverishing Circumstances, the Town of Deerfield is under by means of the present War.

Resolved — That the Sum. of Twenty Pounds be Allowed, and Paid out of the Publick Treasury towards the Support of the Ministry in the s^d Town of Deerfield for the Year currant [*Approved November 26.*]

CHAPTER 76.

RESOLVE FOR THE ESTABLISHMENT OF THE WAGES OF OFFICERS AND SOLDIERS WHO HAVE BEEN DETACHED AND EMPLOYED IN THE QUEEN'S SERVICE IN THIS PROVINCE, SINCE MARCH 25, 1703, OR WHO MAY BE DURING THE PRESENT WAR.*

In y^e house of Representatives Nouemb^r 9th 1703.

Resolved That y^e following Establishment of Wages herein-after made & stated shall be allowed, (& noe other without order of this Court) out of y^e publick Treasury for all Military Officers, & Souldiers y^t haue bene detached, & Employed, since y^e 25th March 1703 In her Majesties Service within this province, or y^t shall soe be, dureing y^e Continuance of this present Warr, with France, Spaine, & y^e Indian Enemie.

Imp^l. To a Comander in cheif of not Less then six Companies forty at least in Each Company; while out after y^e Enemie, vntill his Returne to Garrison, or y^e Expedition be ouer: two pounds ten shillings p week: & none shall be allowed aboue a Captains pay: vntill a further Expedition; & Renewed pursuit of y^e Enemie. Nor shall any Officer y^t hath liberty to wth draw from his post (where he hath y^e charg & Comand of souldiers In Garrison,) be Continued under pay, till his Returne to them, If his absence from y^t trust be aboue eight dayes time:

To a Captaine. One pound Ten shillings p week.

To a Leif^t fifteen shillings p week.

To an Ensigne. twelue shillings p week. none to be allowed agst y^e Indian Enemy

* This resolve appears not to have been formally concurred in by the Council; and the following minute from the records under the date of November 26, 1703, justifies the inference that the Governor and Council considered the apportionment of wages to be a function appertaining to the commander-in-chief, and that the intervention of the representatives was required solely because no grant of money could be made from the Province Treasury without their consent: —

"A message was brought from the represent^{es}. to enquire after their bill for establishing of officers and soldiers pay. His excellency intimated to the messengers it was an imperfect establishment: but so far as it extended it should be observed as a rule." — *Council Records, vol. VIII., p. 17.*

This resolve appears to have been sent to the Council for concurrence as early as March 25, 1703. That draught, however, must have been an earlier one than the one printed above, which is dated November 9th. This "establishment" is referred to, as in force, in subsequent declaratory votes of the House, and there can be no doubt that it was considered as valid and binding as any other resolve of the General Court.

To Euery Sergt. & Each Clerk nine shillings p week.
 To Euery Corp^t Trumpet & dru^m seauen shillings p week.
 To a priuate Centinell six shillings p week. If at y^e Castle Forts or
 other Garrissons. but fiae shillings p week.
 To Troopers or dragoons: six shillings p week: with an Allowance
 of four shillings p week more to Each of them, in Consideration of
 their Horses & Furniture
 To a Chaplain Twenty shillings p week.
 To a Chirurgion. Eighteene shillings p week.
 To a Comissary. fiteene shillings. p week.

And If it soe happen y^t more forces be raised (for her majesties
 seruice in this prouince) to make two parties, Consisting of y^e abouesd
 Number in Each party: y^e Comander in cheif of Each shall be allowed.
 two pounds ten shilling p week

Sent up for Concurrence

JAM^s CONVERSE *Speaker*—

In Council. Nov^r 16th Read

26. Read. a 2^d time*

CHAPTER 77.

ORDER DIRECTING THE PROVINCE TREASURER TO ORDER THE CON-
 STABLES OF THE TOWN OF YORK TO PAY TO THE MINISTER THERE
 TEN POUNDS OF THE PROVINCE TAX LAST LEVIED ON SAID TOWN.

IN CONSIDERATION of the Impoverishing Circumstances That the
 Town of York is under by means of y^e present war.

Ordered—That Direction be given to the Treasurer to Order the
 Constable, or Constables, of the s^d Town to Pay the sum of Ten
 Pounds, part of the sum levied on that Town, in the last Province-
 Tax, to the Minister of the said Town. [*Approved December 1.*]

CHAPTER 78.

ORDER DIRECTING THE PROVINCE TREASURER TO ORDER THE CON-
 STABLES OF THE TOWN OF WELLS TO PAY TO THE MINISTER
 THERE FIFTEEN POUNDS OF THE PROVINCE TAX LAST LEVIED
 ON SAID TOWN.

IN CONSIDERATION of the Impoverishing Circumstances that the
 Town of Wells, is under by means of the present War.

Ordered—That Direction be Given to the Treasurer to Order the
 Constable, or Constables of the s^d Town to Pay the Sum of fifteen
 Pounds part of the sum Levied on that Town in the last Province Tax,
 to the minister of the s^d Town. [*Approved December 1.*]

* The following establishment for the navy was made by executive order:—

“Dec. 23, 1703. Ordered that the two Sloops viz^t the Anne and the Mary lately taken
 up for War, be each allowed a Captain a Mate & Gunner in one person and a Boatswain;
 The Captain to be allowed Five pounds, the Mate and Gunner Fifty shillings p month,
 the Boatswain Forty shillings p Month, Mariners thirty shillings p Month, Souldiers the
 accustomed pay, and that the Anne be set at eight shillings p Tun, the Mary six shillings
 p Tun a Month for hire.

Consented to

J: DUDLEY.”—*Ezec-*

utive Records of the Council, vol. 3, p. 505.

CHAPTER 79.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS STERLING OUT OF THE PROVINCE TREASURY TO CONSTANTINE PHIPPS FOR HIS SERVICES AS AGENT FOR THE PROVINCE AND TO ASSIST HIM IN CONTINUING IN SAID OFFICE.

Resolved That the Sum. of Two Hundred Pounds sterling be allowed and Paid out of the publick Treasury to Constantine Phipps Esq^r in Consideration of what service he has done, and to assist him in further Serving as Agent for this Province. [*Approved December 2.*]

CHAPTER 80.

RESOLVE FOR ALLOWING AND PAYING FIFTY POUNDS TO ISAAC ADDINGTON, SECRETARY OF THE PROVINCE, FOR HIS EXTRAORDINARY SERVICES FOR THE YEAR ENDING DECEMBER, 1703.

Resolved, That the sum of fifty pounds be allowed and paid out of the publick treasury to the Hon^{ble}. Isaac Addington, Esq^r, for his extraordinary service done for this province the year curr^t, expiring in December next. [*Approved December 2.*]

CHAPTER 81.

RESOLVE FOR ALLOWING AND PAYING SEVENTY POUNDS TO JAMES RUSSELL FOR HIS SERVICES AS COMMISSIONER OF THE IMPOST FOR THE YEAR PAST, COMMENCING FROM THE DATE OF HIS COMMISSION.

Resolved, That the sum of seventy pounds be allowed and paid out of the publick treasury to James Russell, Esq^r, commiss^r of impost, for his great trouble in the s^d office for the year past, commencing from the date of his commission. [*Approved December 2.*]

CHAPTER 82.

RESOLVE FOR ALLOWING AND PAYING FORTY SHILLINGS TO SAMUEL MARION FOR HIS SERVICES, FOR SEVERAL YEARS, IN BEATING THE DRUM AT THE PUBLISHING OF LAWS, PROCLAMATIONS, ETC.

Resolved, That the forty shillings be allowed and paid out of the publick treasury to Samuel Marion for his service several years in beating a drum at the publishing of laws and proclamations, etc. [*Approved December 2.*]

CHAPTER 83.

ORDER DIRECTING THE COMMITTEE IMPOWERED TO PRINT AND SIGN THE BILLS OF CREDIT, ETC., TO DELIVER TO THE PROVINCE TREASURER THE SUM OF FORTY-EIGHT POUNDS AND TEN SHILLINGS IN SAID BILLS STILL RETAINED BY THEM.

WHEREAS this Court at their Session in July last Pass'd a Resolve Impowering James Russell, Elisha Hutchinson, Nathaniel Byfield, John Leverett, and Samuel Legg Esq^s to Imprint the Sum. of 5000.th Bills of Credit, and Deliver the Same to the Treasurer, Taking his Receipt for them; But the S^d Committee have Detained, and Still Detain the Sum of forty eight Pounds and ten shillings part of the Sum. afores^d in their hands, which ought to have been Delivered to the Treasurer.

Ordered — That the Said Comi^{ttee} forthwith Deliver the Said Sum. of forty eight Pounds, and ten shillings to the Treasurer. [*Approved December 2.*]

CHAPTER 84.

RESOLVE DIRECTING THAT ORDER BE GIVEN TO THE TREASURER TO PAY EIGHTEEN POUNDS AND SIX SHILLINGS TO THE COMMITTEE APPOINTED TO PRINT, ETC., THE BILLS OF CREDIT, ETC. UNDER THE ACT OF NOVEMBER 21, 1702.

Resolved, That order be given to the treas^r to pay unto James Russell, Elisha Hutchinson, Nath^l Byfield, John Leveret and Samuel Legg, Esq^{rs}, the comm^{tee}. appointed for imprinting credit bills, or to their order, the sum of eighteen pounds and six shillings: thirteen pounds sixteen shillings, part thereof, being for the payment of Joseph Allen's bill for printing, etc., and the remaining four pounds and ten shillings for paper and removing the press. [*Approved December 2.*]

CHAPTER 85.

VOTE FOR THE ENCOURAGEMENT OF VOLUNTEERS FROM MASSACHUSETTS AND NEW HAMPSHIRE AGAINST THE INDIAN ENEMY, BY ALLOWING THEM ADDITIONAL BOUNTIES FOR SCALPS.

In the House of Representatives November 26th 1703.

Proposed — That forty Pounds be Allowed, out of the Treasury of this Province for each Scalp of the Indian Enemy, above ten Years of age, which Shall be Taken, and brought in as the law Directs, To all volunteers who being Comi^ssioned by his Excellency and Set forth and maintain themselves free from the Province charge, and all Indians Taken, under ten Years of age, they shall have the benefit of the Sale thereof, as the law Directs, together with all other Plunder, and that all such volunteers, as shall be Comi^ssioned, and march forth against the s^d Enemy, from the Province of New Hampshire, shall have four fifths of the abovementioned Encouragements out of the Treasury of

this Province, and that the Secretary be Desired to draw a Bill accordingly, to Continue in force for the Space of one Year.*

Sent up for concurrence.

JAM^s CONVERSE *Speaker*

And Considering the great Difficulty and Hardship, that will unavoidably Attend a March of the Detached forces during the Winter season, It is further Proposed that the Same may be Desisted, and his Excellency humbly moved to Disband Such of the s^d forces as are kept in Pay for that Design.†

JAM^s CONVERSE *Speaker* —

In Council. Dec^r 2^d 1703. Read and agreed to to continue to y^e End of the Session of the General Assembly in May next.

Is^t ADDINGTON *Sec^y*. —

This order for reward is Allowed

J DUDLEY

[*Approved December 2.*]

CHAPTER 86.

RESOLVE FOR EMITTING TEN THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT, AND FOR GRANTING A TAX OF TEN THOUSAND POUNDS. [*Approved December 2.*]

[*Printed in the notes to the acts of the year 1703-4.*]

* The words in Italics were underscored in the original, and were, evidently, intended to be stricken out upon the adoption of the vote of the Council limiting the continuance of the bounty to the end of the next May session of the Assembly.

† The record of the advice of the Council upon this proposition of the House is given in the note to this chapter. The substance of the proposal which was rejected by the Council, as above, was, on the same day, embodied in a declaration of grievances by the House, and sent up to the Council just before prorogation, as follows: —

“And y^t a Winter march may be desisted from (there being encourgm^t giuen to volunteers) & y^t the souldiers Intended therefor may be disbanded to such a numb^r as your Excellency may see Conuenient for ye seuerall Garrisons.” — *Mass. Archives, vol. 70, p. 666.*

On the thirteenth this declaration came up for consideration, when the Governor again ordered its postponement, and promised to take action in the mean time, as appears by the following extracts: —

“Dec. 13, 1703. As to the Article for desisting of a Winters March &c^a His Excellency Ordered the Intimation of a General Council, to sit on Thursday the 23rd curreant, to advise of that matter. And declared that in the mean time he would write to the Colonels, and principal Officers of the Militia in the several parts to have their opinion thereupon, and to see if any number of Volunteers will offer for that service upon the last proposal of the General Assembly for Encouragement.” — *Executive Records of the Council, vol. 3, p. 499.*

“Dec. 23, 1703. His Excellency having intimated a General Council this day, and summons having been issued accordingly, to advise abt a Winters march of the Forces now under her Maj^y's pay against the Indian Enemy & Rebels.

His Excellency communicated letters from the Chief Officers of the Militia in several parts in answer to his letters to them, to have their opinion in that matter.

There being but a thin appearance of the Council, It was moved, that the affair be left under consideration till to morrow.

His Excellency Ordered an adjournm^t of the Council unto to morrow at Ten in the morning.” — *Ibid., p. 506.*

The concurrence of the Council, on the next day, in the vote of the House is shown in the note on p. 318, *post*.

VOTES, RESOLVES AND ORDERS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE EIGHTH DAY OF MARCH, A.D. 1703-4.

CHAPTER 87.

VOTE FOR KEEPING A DAY OF FASTING AND PRAYER BY THE
GENERAL COURT AND FOR REQUESTING THE NEIGHBORING MIN-
ISTERS TO BE PRESENT AND JOIN IN THE EXERCISES.

MR. SPEAKER address'd his excellency in the name of the house, that this court might keep a day of fasting and prayer, and that the neighbouring ministers might be desired to be present and carry on the service of the day to implore the divine protection in the arduous affairs under present consideration. His excellency propos'd Wednesday next for that service, which was *agreed* to by the council, and directed that intimation thereof be given to the ministers, and that Mr. Willard and Mr. Danforth be desired to preach on the said day. [*Passed March 9, 1703-4.*]

CHAPTER 88.

RESOLVE FOR ALLOWING AND PAYING SEVEN POUNDS AND FIVE-PENCE OUT OF THE PROVINCE TREASURY TO ANNA BLANCHARD OF GROTON, FOR DEFRAYING THE FUNERAL EXPENSES OF HER LATE HUSBAND, A SOLDIER IN THE EXPEDITION UNDER CAPTAIN TYNG.

A PETITION of Anna Blanchard of Groton, widow, setting forth that her husband, James Blanchard, is lately deceased, his sickness being occasioned by the hardships and difficulties he underwent under Cap^t Tyng in his late expedition, praying to be eased of the charge of his funeral, or whatever else may be thought fit, was sent up from the represent^{ves} with their resolve thereupon; viz.,—

Resolved That the Praier of the above Petition be Granted, and the Sum of Seven Pounds and five pence be Allowed, and Paid out of the publick Treasury to Anna Blanchard the Petitioner for Defreying the charge of her late Husband's funerall [*Concurred in by the Council, and approved March 9, 1703-4.*]

CHAPTER 89.

ORDER FOR NOTIFYING THOMAS COOPER OF THE PETITION OF ELISHA HUTCHINSON, COMPLAINING OF A MIS-TRIAL OF THE CASE BETWEEN SAID COOPER AND HUTCHINSON.*

A PETITION of Elisha Hutchinson, Esq^r., complaining of a mistrial in the superiour court in a case between Thomas Cooper, plaintiff, and the said Elisha Hutchinson, admitted defend^t in the room of Richard Stretton and William Storey, millers, was presented and read, and

Ordered, That the said Thomas Cooper be served with a copy of the said petition, to make answer thereto if he thinks fit. [*Passed March 10, 1703-4.*]

CHAPTER 90.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF DUNSTABLE TOWARDS THE SUPPORT OF THE MINISTRY THERE.

Resolved. That The sum of Twenty Pounds be allowed, and Paid out of the publick Treasury towards the Support of the Ministry in the Town of Dunstable for the Yeare ensuing. [*Approved March 10, 1703-4.*]

CHAPTER 91.

RESOLVE FOR REMITTING THE EXCISE DUE BY SUSANNAH CARTER AS A RETAILER OF STRONG DRINK FOR THE YEAR PAST.

A RESOLVE was sent up from the represent^{ves}., upon the petition of Susanna Carter, widow, praying an abatem^t of the excise for her draught as a retailer the year past, which she used about two months and then laid down; viz^t, —

Resolved That the Praier of the Petition on the other Side be Granted, and the whole due from the Petitioner for Excise, the Year last past be Remitted [*Concurred in by the Council, and approved March 10, 1703-4.*]

* See chapter 47, *ante*, and note thereto, *post*. The answer of Thomas Cooper, and Mehetabel his wife was presented and read in the Council, March 16, 1703-4.

CHAPTER 92.

ORDER APPOINTING A COMMITTEE* TO VISIT CASTLE ISLAND AND INQUIRE INTO AND REPORT UPON THE PRESENT STATE OF THE GARRISON THERE.

In the House of Representatives. March 10th 1703.

Ordered — That Cap^t Savage, M^r Blagrove, M^r Clap, M^r Otis M^r Cushing, and M^r French be a Committee with his Excellency's Leave, to go down to the Castle, and Inquire into the present state of that Garrison, and make Report to the House.

That Cap^t Phipps, M^r Lynde, and M^r Holyoke wait on his Excellency for his leave.

JAM^s CONVERSE *Speaker*—

March. 11th 1703.

In Council.

Ordered That John Hathorne, John Phillips And^r Belcher and Sam^l Legg Esq^{rs} be a Committee of the Board, for the Affayr aforesaid. —

Is^t ADDINGTON *Secry*.

[*Passed March 11, 1703-4.*]

CHAPTER 93.

ORDER FOR PROVIDING FIVE HUNDRED PAIRS OF SNOW-SHOES FOR THE USE OF THE MILITIA IN THE COUNTIES OF HAMPSHIRE, MIDDLESEX, ESSEX AND YORK.

Ordered, That there be five hundred pair of good snow-shoes provided at the publick charge, one hundred and twenty-five pair thereof to be put into the hands of each colonel or chief military officer of the regiments of militia within the county of Hampshire, the north regiment of Middlesex, the north regiment of Essex, and the regiment in the county of York lying frontier next to the wilderness, to be in readiness for her majesty's service, the said officers, respectively, to stand charged therewith and to be accomptable for the disposal of them; the making whereof to be under the oversight of such person or persons as are skillful in them, that they may be made of such materials as may be most serviceable. [*Approved March 14, 1703-4.*]

CHAPTER 94.

ORDER APPOINTING A COMMITTEE TO PURCHASE OF CAPTAIN BOW-DITCH GUNPOWDER LATELY IMPORTED BY HIM.

In the House of Representatives. March 17 : 1703.

Ordered That Cap^t Sam^l Cheekley and Cap^t Sam^l Phipps be a Committee to Joine with Such as the Hon^{ble} Board shall Nominate to Purchase for the Use of the Province, at the best Rate that may be, So

* This committee was originally intended to be a committee of the House only, but, although the committee appointed by the Council for the same purpose is not expressly joined, the whole body acted as a joint committee. See chapter 99, *post*.

much of the Gunpowder Imported lately by Cap^t. Bowditch, as can be Obtained.

Sent up for Concurrence.

JAM^s CONVERSE *Speaker* —

17th March. 1703 / 4.

In Council.

Read and pass'd a concurrence and Elisha Hutchinson and Penn Townsend Esq^s named to joyne the Committee of the House for the Affayre aboves^d

Is^a ADDINGTON *Sec^{ry}*

[*Approved March 17, 1703-4.*

CHAPTER 95.

RESOLVE FOR PAYING FOUR POUNDS AND EIGHT SHILLINGS OUT OF THE PROVINCE TREASURY TO THE TREASURER OF THE TOWN OF BOSTON FOR THE SUPPORT OF PRISCILLA SMART, AN IMBECILE PERSON DRIVEN FROM BLACK POINT BY THE ENEMY.

AN ACCOMPT of the overseers of the poor of the town of Boston for the support of Priscilla Smart, an impotent girl, driven by the enemy from Black Point, amounting to the sum of four pounds eight shillings, was sent up from the represent^{ves}. with the resolve of that house thereon; viz^t, —

Resolved That the Sum of four Pounds & eight shillings be paid out of the publick Treasury to the Treasurer of the Town of Boston to Defray the charge abovementioned [*Concurred in by the Council, and approved March 17, 1703-4.*

CHAPTER 96.

RESOLVE FOR ABATING FOUR POUNDS OF THE EXCISE DUE BY ROBERT SAUNDERS OF BOSTON, A RETAILER OF STRONG DRINK.

A PETITION of Robert Saunders of Boston, praying an abatement of four pounds of the eight pounds excise whereat he was sett for his draught as a retailer in the year 1701, he using his licence but one-half of the said year. was sent up from the represent^{ves}. with the resolve of that house pass'd thereon; viz^t, —

Resolved That the Praier of this Petition be Granted, and Order Given that the Petitioner be Discharged from any further Payment on Acc^t of the Licence therein mentioned. [*Concurred in by the Council, and approved March 17, 1703-4.*

CHAPTER 97.

RESOLVE FOR REMITTING THE DUTY ON A QUANTITY OF GOODS SAVED OF THE CARGO OF THE SHIP HOPEWELL, CAST AWAY NEAR CAPE COD, ETC.

A PETITION of Robert Howard and sundry other merchants, on behalf of themselves and divers others, freighters of the ship Hopewell,

John Sunderland, master, from Barbadoes, lately cast away upon or near Cape Codd, praying to be remitted the custom and duties of the goods saved, was sent up from the represent^{res.} with the resolve of that house thereon; viz.,—

Resolved, That the prayer of the petition be granted, and the duty upon the goods therein mentioned be remitted.

Which vote being read at the board,—

Voted, That Penn Townsend, Esq^r, be desired to assist the commissioner in taking an accmpt from the master, Sunderland, of the goods saved, that the owners of the ship be abated the whole of their own goods, and that the other freighters be abated in proportion to their loss. [*Approved March 17, 1703-4.*]

CHAPTER 98.

RESOLVE FOR PAYING A PENSION OF FORTY SHILLINGS PER ANNUM, UNTIL FURTHER ORDER OF THE GENERAL COURT, TO SAMUEL CLARK OF IPSWICH, A SOLDIER WOUNDED AND DISABLED IN THE KING'S SERVICE.

A PETITION of Samuel Clark of Ipswich, setting forth that he was wounded some years since by the Indian enemy, whereby he is lamed and disabled, praying for some releif, was sent up from the represent^{res.} with the resolve of that house thereon; viz.,—

Resolved That the Sum^m of forty shillings p^p annum be Paid out of the publick Treasury to the Petitioner untill this Court shall Order otherwise. [*Concurred in by the Council, and approved March 17, 1703-4.*]

CHAPTER 99.

VOTE FOR ACCEPTING THE REPORT OF THE COMMITTEE APPOINTED TO VISIT CASTLE ISLAND AND FOR THANKING THEM FOR THEIR SERVICE.

THE COMMITTEE of both houses appointed to visit the castle presented their report, w^{ch}. was read and *accepted*, and thanks returned to the gentlemen for their service, and sent down to the represent^{res.} with a desire that the report may be pursued. [*Passed March 18, 1703-4.*]

CHAPTER 100.

RESOLVE FOR THE ENCOURAGEMENT OF VOLUNTEERS AGAINST THE FRENCH AND INDIAN ENEMY, ETC.

FOR THE ENCOURAGEMENT of Voluntiers against the French and Indian Enemy and Rebels. —

Resolved, That his Excellency be desired to Commission such a number of Officers, who may enlist and conduct such Companys of Volun-

tiers as may amount to a proper number, not less than Six hundred, if possible, the officers & Souldiers to fit out themselves at their own charge, without pay to range the Coast and Woods of these Provinces; And to Insult the Eastern Coast of Nova Scotia and Port Royal.

who shall have for their Encouragement Vessells and Boats provided to transport them and attend the Service at the publick charge: and shall be Supplied with Provisions & Ammunition upon Account to be deducted out of the Præmium.

That there be paid out of the Publick Treasury one hundred pound p head, for every Scalp of the Indian Enemy by them slain and presented to his Excellency in Council, and ascertained as the Law directs, above the age of Ten years, and all under that age with other plunder, to be to the benefit of the Officers and Souldiers in just proportion; And that all proper care be taken of the wounded for their cure, and of the maimed for their Support as the General Assembly shall see meet —

That the Commissary General be ordered forthwith to provide Stores and Vessells at the Governo^rs direction.

That his Excell^y. be desired to improve three hundred & Fifty men with proper Officers under pay from Woodstock to Wells for Scouts and flying party's who may be posted in the several Frontiers and Blockhouses upon Merrimack for their Security when they are not upon their march. And that of this number some of the several Towns may be Employed in the Service, that may be fit for guides and such as have no other methods to Support themselves there.

That the Fishery and Coasters may be guarded with a Sloop or two suitable for their Security.

That his Excellency be desired Earnestly to press the Governm^t of Connecticut to afford Souldiers for the Support of Hampshire, on that River; which is their own Frontier. —

That four fifths of the within Encouragement be Allowed out of the publick Treasury of this Province, to any Companys of Voluntiers that shall march from the Province of New Hampshire

That the Act Entitled, an act to Encourage the Prosecution of the Indian Enemy, & Rebels, be further Continued, and Remain in force untill the last day of November next coming. Provided that the Encouragement, Given to Volunteers under Pay in the second Paragraph thereof shall not be Interpreted, to Extend, to such as Embark upon any Expedition in Vessells provided at the publick charge.

That, If the Govern^t and Council, In the Absence of the General Assembly, see good to pay for Indian Captives under ten year's old, the Sum of three pounds, they shall have them for the redemption of our Captives, and Improved to no other use; Or else they shall be sold beyond Sea, by the Captors.

That Troopers be Improved in proportion with the Foot for the Security of the Frontiers.

That the Embargo be minded.

That his Excellency be requested to write to Rhode Island Governm^t from this Court to afford us their Assistance in the present war.

That the Sum of Twenty pounds be paid out of the Publick Treasury to such person or persons as his Excellency & Council shall see meet to Order it for their necessary expences in Listing Voluntiers for the Service. — [*Approved March 20, 1703-4.*]

CHAPTER 101.

ORDER FOR CONFIRMING THE CONVEYANCE OF A TRACT OF LAND EIGHT MILES SQUARE, IN THE NIPMUCK COUNTRY, BETWEEN MENDON AND OXFORD, PURCHASED OF JOHN WAMPAS, ALIAS WHITE, AND OTHERS, INDIANS, BY JOHN COMER AND OTHERS, PROVIDED THE PURCHASERS SETTLE THE SAME, ETC. [*Approved March 21, 1703-4.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 102.

RESOLVE ESTABLISHING THE ALLOWANCE OF PROVISIONS FOR THE SUBSISTENCE OF SOLDIERS AT THE CASTLE, FORTS AND GARRISONS.

Resolved — That the Allowance of Provisions for Subsisting of the souldiers in her Maj^{ties} Service, at the Castle, fforts Garrisons, shall be as follows during the present War — viz^t:

One pound of Bread to a man p day allowing one eighth for Breakage.

Two Pieces of Pork each Containing Two Pounds to Six men p day.

And Sometimes Two pieces of Beef instead of Pork, each containing four Pounds to six men p day.

Three Pints of Peas for Six men p day.

Two Quarts of Beer to a man p day. — [*Approved March 22, 1703-4.*]

CHAPTER 103.

RESOLVE FOR ALLOWING AND PAYING FIVE POUNDS OUT OF THE PROVINCE TREASURY TO JOHN GERMAN, SURGEON OF THE PROVINCE GALLEY, FOR HIS EXTRAORDINARY SERVICES IN CURING SEVERAL SOLDIERS BELONGING TO THE GARRISON OF THE FORT AT CASCO BAY.

A PETITION of John German, surgeon on board his majesty's ship the province galley, praying consideration for his extraordinary service in curing several soldiers of the garrison at the fort at Casco, wounded in her majesty's service, was sent up from the house of represent^{ves}. with the resolve of the house thereupon; viz^t, —

Resolved That the Sum^y of five Pounds be Allowed, and Paid out of the publick Treasury to John German the Petitioner. [*Concurred in by the Council, and approved March 23, 1703-4.*]

CHAPTER 104.

RESOLVE FOR PAYING FOUR POUNDS OUT OF THE PROVINCE TREASURY TO ELIZABETH HUNNEWELL OF BLACK POINT, TO REIMBURSE HER FOR A STEER KILLED FOR THE USE OF THE GARRISON THERE, AND FOR DISBURSEMENTS MADE BY HER LATE HUSBAND IN BUILDING THE FORTIFICATION THERE.

A PETITION of Elizabeth Hunniwell, relict, widow of Richard Hunniwell of Black Point, late dec^d, praying an allowance for a steer kill'd for supply for the garrison there, and for disbursement by her husband in building the fortification, was sent up from the represent^{ves}. with the resolve of the house thereupon; viz.,—

Resolved That the sum of four Pounds be Paid out of the publick Treasury to Elizabeth Hunnewell the Petitioner [*Concurred in by the Council, and approved March 23, 1703-4.*]

CHAPTER 105.

ORDER FOR PROVIDING A GUARD BY DAY FOR THE STORES OF WAR IN THE SCENCE AT BOSTON, AND REQUIRING SAID TOWN TO FURNISH A GUARD BY NIGHT.

Ordered That Two able and Trusty men be *Posted* as a Guard by day for the Stores of War, Reposited in the Sconce in Boston, and that the Town of Boston Provide a Sufficient Guard by night—[*Approved March 23, 1703-4.*]

CHAPTER 106.

RESOLVE FOR REMITTING THE DUTIES OF IMPOST ON A SMALL QUANTITY OF GOODS SAVED, IN A DAMAGED CONDITION, OF THE CARGO OF THE BRIGANTINE GOOD INTENT, CAST AWAY NEAR YORK, ETC.

A PETITION of Peter Sergeant, Esq^r, and other gentlemen and merchants, in behalf of themselves and the rest of the freighters of the brigantine named the Good Intent, setting forth that the said brigantine, John Frost, master, in her voyage (lately) from Barbadoes bound for Boston, was unhappily cast away near York, whereby most of her lading was lost, and that little which was saved, damnified, praying that the duties for the same may be remitted, was sent up from the represent^{ves}. with the resolve of that house thereon, viz^t, that the prayer of the petition be granted, and that order be given to the commissioner of the impost accordingly; which petition and resolve being read at the board,—

Voted, That Penn Townsend, Esq^r, be desired to assist the commissioner in taking an accompt of the goods saved, that the owners of the vessel be abated the whole of the duties for their own goods, and that the other freighters be abated in proportion to their loss. [*Approved March 24, 1703-4.*]

CHAPTER 107.

ORDER DIRECTING THE COMMITTEE APPOINTED TO PURCHASE POWDER OF CAPTAIN BOWDITCH FOR THE USE OF THE PROVINCE, TO PURCHASE OF OTHERS SUFFICIENT TO MAKE, IN ALL, THIRTY BARRELS.

Ordered That the Committee appointed to buy Powder for the Province, Imported by Cap^t Bowditch be Desired to Purchase of any others, So much, as with what can be obtained of Cap^t Bowditch's shall make the Quantity of Thirty Barrells. [*Approved March 24, 1703-4.*]

CHAPTER 108.

RESOLVE FOR PAYING FOUR POUNDS THREE SHILLINGS AND FOUR-PENCE OUT OF THE PROVINCE TREASURY TO CAPTAIN WILLIAM SOUTHWORTH; TO BE DIVIDED AMONG FORTY OF HIS COMPANY WHO WERE VOLUNTEERS IN THE LATE MARCH AGAINST THE INDIANS, IN CONSIDERATION OF SCALPS TAKEN BY SAID COMPANY.

Resolved That the Sum of four Pounds three shillings & four pence, be Paid out of the publick Treasury to Cap^t W^m Southworth, to be by him Divided amongst the forty of his Company that were Volunteers, in the late March against the Indian Enemy, wherein were Recovered four Scalps, as their share of Reward for the same. [*Approved March 24, 1703-4.*]

CHAPTER 109.

RESOLVE FOR ALLOWING AND PAYING FOUR POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, FOR HIS EXTRAORDINARY SERVICES DURING THE YEAR 1703-4.

Resolved, That the sum of four pounds be allowed and paid out of the publick treasury to John White, clerk of this house, for his extraordinary service the year past. [*Concurred in by the Council, and approved March 24, 1703-4.*]

CHAPTER 110.

RESOLVE FOR ALLOWING EIGHT POUNDS OUT OF THE PROVINCE TREASURY TO MATTHEW CAREY FOR FOUR MONTHS' SERVICE AS WAITER TO THE IMPOST OFFICE.

Resolved, That the sum of eight pounds be allowed out of the publick treasury to Mathew Carey for his last four months' service as a waiter to the impost office. [*Approved March 24, 1703-4.*]

CHAPTER 111.

ORDER ALLOWING THE ACCOUNTS OF COLONEL RÖMER, AND THANKING HIM FOR HIS SERVICES IN PLANNING AND CONSTRUCTING THE FORTIFICATIONS AT CASTLE ISLAND; ALSO FOR GIVING THE CHARGE OF COMPLETING SAID FORTIFICATIONS TO THOMAS BRATTLE AND TIMOTHY CLARKE, AND ALLOWING THEREFOR TWO HUNDRED AND FIFTY POUNDS OUT OF THE PROVINCE TREASURY.

BEING INFORMED That Col^o Romer will be necessarily absent this Spring from the Inspection of the Works at the Castle, and, there being very little there to be done for the compleat finishing of the Works, for which also we have Col^o Romers Direction.

Ordered That the Thanks of this Court be given to Col^o Romer for his good service at the Castle, and his accounts be Allowed.

That Tho^o Brattle Esq^r and Cap^t Timothy Clark the late Comission^{rs} for that affaire forthwith Agree for the s^d Works that the same may be finished out of hand according to Direction, from his Excellency the Governour.

That the sum of Two hundred and fifty Pounds and no more be further Allowed out of the publick Treasury for the s^d works viz^t for Making the Carriages, and Platforms necessary, the finishing the south East & south west Bastions as the other Two are finished, and for Building Lodgings, where the long room was, which are to be made the face with Brick the Rest wth wood [*Approved March 24, 1703-4.*]

CHAPTER 112.

ORDER FOR ESTABLISHING THE WAGES OF OFFICERS AND MARINERS, AND THE HIRE OF VESSELS IMPRESSED INTO THE NAVAL SERVICE OF THE PROVINCE DURING THE PRESENT WAR WITH FRANCE AND SPAIN, ETC.

Ordered That the Following Establishment be Observed in the Paying of Sea-Officers, Mariners and Vessells, that are or Shall be Taken up and Imploied, in her Maj^{ties} Service during the present War with France, and Spaine, and the Indian Enemy viz^t

That there be paid.

For Open Transports three shillings, and Six pence *p* Tun, *p* month.

For Deck't Transports between Thirty and fifty Tuns, four shillings 6^d *p* Tun, *p* month.

For Deck't Transports between fifty and an Hundred Tuns five shillings 6^d *p* Tun *p* Month —

To a Master of an Open Transport fifty shillings *p* month.

To a Master of a Deck't Transport between thirty and forty Tuns, three pounds ten shillings *p* month.

To a Mate of the Same fifty shill *p* month

To a Master of a Deck't Transport between forty & an hundred Tuns, four Pounds ten shill *p* month —

To a Mate of the Same fifty five shill. *p* month — .

For Vessells Taken up for War, being duly fitted and Guns found by the Owners, eight shill. *p* Tun *p* month. if above Ninety Tuns. & all Vessels aboue 130^{Tu} 9^s *p* Tu *p* m^o,

For Such as are under Ninety Tuns, & not lesse than fifty, Seven shillings p Tun, p month

To the Officers of Vessells Taken up for War that are above Ninety Tuns as follows viz!

To a Captain Six Pounds p month.

To a Mate Three Pounds p month—

To a Gunner forty shill. p month—

To a Boatswaine forty shill: p month.

To a Carpenter forty shill p month.

To a Chyrurgion as already stated.

To the Officers of Vessells of War that are under Ninety Tuns, and not lesse than fifty Tuns, as follows viz!

To a Captain five Pounds p month—

To a Gunner fifty Shillings p month.

To a Boatswaine forty shillings p month.

To a Carpenter forty shillings p month.

To all Mariners Thirty shill: p month—and all vessells Improved, for the Publick, that shall be Taken or damnified by the Enemy it Shall be made good by the Province. [*Approved March 24, 1703-4.*]

CHAPTER 113.

DECLARATION AGAINST PROFANENESS AND IMMORALITIES.

PROVINCE OF THE
MASSACHUSETTS BAY
IN NEW ENGLAND

By his Excellency, the Gov^r. Council and
Assembly of the said Province. —

A Declaration against Prophaneness and Immoralities.

Under a deep sence of the Divine displeasure express'd in various calamities already Inflicted, and still awfully threatning us, Because we have not hitherto been reformed.

We have Accounted it our Duty faithfully to declare our serious thoughts * upon an occasion so very extraordinary.

We doubt not but that every religious person within this Province do's with distress of soul behold the Evident hand and anger† of the great God, That not onely the clouds return after the rain, In a new war which the perfidious & murderous Rebels the salvages have commenced, whils't we were yet languishing under the wounds of the former, but also that so small a handful are made so severe a scourge, and the most probable methods of subducing them have hitherto been rendred unsuccessul. —

When We also consider how many hundreds of churches in Europe, Famous for the Protestant Religion, have within these few year's been made an horrid and utter desolation, Yea and how many persons of this Province have since the beginning of the present war, been slaughtered and captivated by a bloody Enemy; Altho. they have not been greater sinners than the rest of their Neighbours; and some of them exemplary for their Piety, we cannot Imagine but that all considerate persons are trembling before God and afraid of his Judgements. And it being the concurrent Apprehension of Good men, That a General Reformation must be Endeavoured for the prevention of a General Desolation; It becomes absolutly necessary for us, the

* "Serious thoughts" written over "sentiments," cancelled.

† Written over "wrath," cancelled.

Rulers, and Representatives of this People, to publish unto them, the sorrow's, and Desires of our Heart's, as a Testimony before Heaven and Earth,

The best People, have, in the sad Experience of all ages, quickly Degenerated, And it is too Obvious, that this people have done so, And that the Errand of our Fathers into this Wilderness (which was to plant pure churches, that should maintain the Evangelical Faith and Worship) hath been very much forgotten and too meanly Esteemed by many of their Posterity and that the spirit of this world hath brought on a general Decay of the power of Godliness. But that we may have a Right sence of our degeneracy, we must not go about to extenuate our miscarriages by comparing ourselves with others, that may have proportionably less of good order among them; 'Tis' fit, that we should remember our Advantages by the glorious Gospel of the blessed God, and our high profession and strong Engagements to be a peculiar People, And then we cannot but Acknowledge, That, the Prophanity of many, In their neglect of the Publick Worship and covenant of God, and prophanation of the Lords day; The Excessive tipling and drinking, which like a Flood even drownes much of Christianity in several places; The Vanity in Apparel, affected by too many; The woful decay of Family Instruction and discipline; The unrighteous treatment which those in a Publick station, often suffer from the People; The scandalous contentions and Animosities maintained in the midst of us; The prophane curseing & swearing and takeing the name of God in vain, for w^{ch} the Land mourns, The unclean spirit wherewith too many have been possessed, Encourageing Incentives to Lewdness; The gross dishonesty and oppression too much practised The Falsehoods and slaunders which continually walk in darkness among us; And our miscarriages in day's of peculiar Temptation, For which, all Ranks of men have cause to Judge themselves before God. These, and other Immoralities, oblige us to Justify the holy God, should he proceed against us with the dreadfulest of his severities. The great sacrifice of our Lord Jesus Christ, is all we have to plead for deliverance.

That we may come at the desired Reformation, and may avert the Judgements which we fear and obtain the removal of them we feele, the wondrous mercy of God, against whome we have sinned, has appeared in furnishing of us with directions, by the mouth of his Faithful servants, who have consulted his holy oracle; And we hope it will be pleasing to God and useful to this people, If we do, as his people, offer* our hearty Wishes to see everywhere a conformity unto those directions. We would wish that the Expedients offered for a Reformation, by a synod here some year's agoe were more thoroughly practised. And we particularly Recommend unto the Justices of the respective Courts of General Sessions of the Peace, that Article, That the number of Houses for publick Entertainment, may not exceed what is necessary, nor any be entrusted with them, but persons of approv'd honesty and Fidelity.

And Whereas the Laws have made great provision to discountenance Vice and Immorality; We strictly direct and Require† them, and all other officers concerned, that they would seriously consider the Oath of God upon them and frequently hold consultations together what they may do to reforme any spreading Evils. And y^e persons when chosen to office, more peculiar for Inquiry and finding out offenders, would not decline the service. Nor would we leave Householders uncalled upon, to be more careful about the Education of their children and servants, That so the next Generation may not, for want of being

* Written over "utter," underscored.

† "Strictly direct and require" written over "earnestly call upon," cancelled.

well taught both at home and in the school, sinke into a deplorable condition.

It is with Pleasure, That we find the Rev^d ministers of the Gospel, among the published Effects of their Deliberations, Declaring their Advice, That particular congregations* would be exemplary to one another in Inquiring into their own circumstances, and in renewing, Explaining and Enforceing of all Religious Duty's†; And that the Pastors of the churches in Visiting their Flocks would Informe themselves about the morals of their People, And thereupon both publicly & privately set themselves to cure what shall be found amiss among them.

But such is the Efficacy of sin upon a miserable world, That no counsils, no warnings nor Judgements will produce an Effectual Reformation until a spirit for so blessed a worke be given of God. And therefore we cannot but Express our hearty Approbation of, and satisfaction in the Advice which has been sometimes given, That solemn day's of Prayer with Fasting may be celebrated in the churches, to aske for the Effusions of the spirit of Grace upon this whole People, English and Indians, And Especially upon the rising Generation, by which they may be disposed to all those good things, which may be for the lengthning out of our Tranquility. Unto which purpose, not onely the day's Appointed by Authority are to be diligently applyed and Improved, but such as may be more privately agreed to be successively kept by particular congregations in their several Vicinities, would be but agreeable unto such a dark time as we are now fal'n into.—

By these things would we testify to the world, That we are in Earnest for the Return of this whole People unto God, And for our deliverance in the way of that Return, That so God may be for us; And if God be for us who can be against us. —

Given at Boston the Twenty fourth
day of March 1703 In the Third
year of Her Ma^{ty}s Reign. [*Approved March 24, 1703-4.*]

CHAPTER 114.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO JOSEPH DUDLEY FOR HIS SERVICES AS GOVERNOR, ETC.

Resolved That the Sum of Two Hundred Pounds, be Allowed and Paid out of the publick Treasury to his Excellency Joseph Dudley Esq^r Captain Generall and Governour in chief of this Her Majestys Province, for, and towards his Support in the Government. [*Approved March 25, 1704.*]

* Written over "churches," cancelled.

† "All religious duty's" written over "their covenant," underscored.

ORDERS, RESOLVES, ETC.

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE EIGHTEENTH DAY OF APRIL, A.D. 1704.

CHAPTER 115.

ORDER AUTHORIZING HENRY BRIDGHAM, GUARDIAN OF MARY BAKER OF BOSTON, A MINOR, TO JOIN WITH THE OTHER HEIRS OF THOMAS BAKER AND LEAH HIS WIFE, BOTH LATE OF BOSTON, DECEASED, IN THE SALE OF THE REAL ESTATE OF SAID DECEASED, FOR THE PAYMENT OF THEIR DEBTS.

UPON READING the petition of George Waldron and Rachel his wife, Thomas Baker, John Baker, and Henry Bridgham, guardian to Mary Baker, the children, grandchildren and heirs of Thomas Baker, late of Boston, blacksmith, and Leah his wife, both dec^d, praying that the said Henry Bridgham, guardian of the said Mary, being a minor about sixteen years old, may be impowered to act for her the said Mary, and join with the other petitions in making sale of the houses and lands of the said Thomas and Leah Baker, for payment of their just debts, etc.,—

Ordered That the Prayer of the within Petition be granted Viz^t That the said Henry Bridgham Guardian to the withinnamed Mary Baker, Be and hereby is fully Impowred and Authorized to Act for her the said Mary, and to joyne with the other Petitioners in makeing Sale of the Houseing and Lands therein mentioned And to Execute Deeds in her name accordingly.—[*Approved April 20, 1704.*]

CHAPTER 116.

RESOLVE EXTENDING THE PROVISIONS OF THE SECOND SECTION OF THE ACT OF SEPTEMBER 8, 1703, TO ENCOURAGE THE PROSECUTION OF THE INDIAN ENEMY, ETC., TO SUCH VOLUNTEERS AS EMBARK IN ANY EXPEDITION BY SEA AGAINST THE FRENCH AND INDIAN ENEMY.

Resolved That the Encouragement Given to volunteers under Pay in the Second Paragraph of the act Intituled an Act to Encourage the Prosecution of the Indian Enemy & Rebels, be Given to such as under Comission from his Ex^{ty} the Govern^t shall voluntarily Embark upon any Expedition against the french or Indian Enemy in vessells Provided at the publick charge, untill the last Day of August next, notwithstanding the Proviso in a Resolve of this Court made, at their last session to the contrary. [*Approved April 20, 1704.*]

CHAPTER 117.

ORDER REQUIRING ALL FRENCHMEN RESIDING IN THE PROVINCE TO BE REGISTERED, AND THEREAFTER TO BE TREATED AS ENGLISHMEN SIMILARLY OFFENDING, IF CONVICTED OF HOLDING INTERCOURSE WITH THE ENEMY; AND ALSO DIRECTING THAT ALL FRENCH ROMAN CATHOLICS IN THE PROVINCE BE MADE PRISONERS OF WAR; AND REQUESTING THE NEIGHBORING PROVINCES TO USE THE SAME PRECAUTIONS.

Memorial

It seems Convenient, if not Necessary, that by an Order of this Court all the French-men residing in this Province, be Registred, and they brôt under such a Regulation: That if at any time after, they be convicted of holding Correspondence with the French & Indian Enemy, they may without dispute, be proceeded with as English-men should be under the like circumstances. And that all French Roman Catholics, be forthwith made Prisoners of War. And the Governments of Coñecticut, and Rhode-Island, and New-Hampshire, be desired to use the same Precaution

Humbly Offerd to his Excellency the Governour, the honorable Council & Representatives in General Court Assembled April, 18th 1704.

By SAMUEL SEWALL.

In the House of Representatives April 20 1704 Read and
Ordered That a Resolve of this Court be made accordingly

Sent up for Concurrence JAM^s CONVERS *Speaker*
April. 20th 1704. In Council. Read and pass'd a concurrence.
Is^a ADDINGTON *Secry.*—

[*Approved April 20, 1704.*]

CHAPTER 118.

ORDER DIRECTING THOMAS BRATTLE AND TIMOTHY CLARKE, APPOINTED TO MANAGE THE EXPENDITURE OF THE MONEY GRANTED TOWARDS FORTIFYING CASTLE ISLAND, TO BUILD THE LODGINGS IN THE LONG ROOM AT THE CASTLE ACCORDING TO THEIR OWN PROJECTION.

THOMAS BRATTLE Esq^r and Cap^t Timothy Clark the Committee Appointed to Lay out the Money Granted for fortifying Castle Island having Represented to this House that the Building of the Lodgings in the long room, may be made Safer, and not much dearer, with a brick arch.

Ordered—That It be left to the Said Committee to build the s^d Lodgings according to their Projection. [*Approved April 20, 1704.*]

CHAPTER 119.

RESOLVE THANKING MAJOR SAMUEL MASON FOR CONDUCTING THE CONNECTICUT REINFORCEMENT INTO THIS PROVINCE, AND REQUESTING HIM TO REMAIN WITH HIS COMMAND; ALSO FOR PRESENTING HIM WITH TWENTY POUNDS AND A QUARTER-CASK OF WINE IN ACKNOWLEDGMENT OF HIS SERVICES.

Resolved — That the Thanks of this Court be Given to the Hon^{ble} Maj^r Sam^l Mason, for his good Service in Disposing, and Conducting the Connecticut forces, into Her Maj^{ties} service in this Province.

That he be Desired to Continue his Presence with them.

And That in gratefull Acknowledgment of his good Service afores^d the Sum of Twenty Pounds, and a Quarter Cask of Wine be Presented to the S^d Maj^r Mason out of the publick Treasury. [*Approved April 20, 1704.*]

CHAPTER 120.

ORDER INSTRUCTING THE COMMITTEE APPOINTED TO PRINT AND SIGN THE BILLS OF CREDIT, ETC., AS TO THE NUMBER OF BILLS TO BE PRINTED OF THE SEVERAL DENOMINATIONS.

In the House of Representatives April 20 : 1704

WHEREAS there is a generall Complaint that Small Bills of Credit are much wanted for Exchange, and this House are Informed that the Committee appointed to make Bills of Credit, have already made near Two Thousand Pounds of the Ten Thousand Pounds Ordered to be Imprinted, of large Bills.

Ordered That It be an Instruction to the s^d Committee, That they make about five hundred Pounds. upon the Plate that Contains halfe crown Bills & two shilling Bills. And the Remainder of the s^d Sum of Ten Thousand Pounds upon the Plate which contains forty shilling, Twenty shilling, ten shilling, and five shilling Bills.

Sent up for Concurrence.

JAM^s CONVERSE *Speaker*

In Council.

April. 20th 1704.

Read and concurr'd, so far as the progress which the Committee have already made will admit of. —

Is^a ADDINGTON *Sec^{ry}*

[*Approved April 20, 1704.*]

CHAPTER 121.

ORDER FORBIDDING THE INDIANS OF NATICK, ETC., TO GO MORE THAN ONE MILE FROM THEIR RESPECTIVE PLANTATIONS WITHOUT LICENSE, ETC., ON PAIN OF DEATH; PROVIDING FOR AN AGENT, ETC.

In the House of Representatives. April 21. 1704

This House being Inform'd by diverse of their Members, that Some of the Indians of Natick, as well as other Places, Take the Liberty to Passe through the Towns & Travaile into the Woods, without Licence from authority, and when called to an account whither They are going

and for what End, behave themselves in a surly insolent manner, by which their Liberty Opportunity is given them that are so minded to Convey Intelligence to our Enemies.

Ordered That a Message be sent up to his Excellency the Govern^r and Councill earnestly moving that Such methods may be forthwith Taken to Restrain the s^d Indians within Such proper places & Limits as may effectually Prevent the dangerous Inconveniency aforementioned.

JAM^s CONVERSE *Speaker*

April. 21st 1704. — In Council.—Read, and

Ordered That none of the Indians of Natick or other places presume to be found one mile out of the bounds of their respective Plantations without express order from his Excellency and wth an English man in their Company, on Pain of death; And that m^r Leverett be desired to Improve some Englishmen as there may be occasion to dispose of their Wares for them. And that he give instant notice to them of this order. —

sent down for concurrence

Is^a ADDINGTON *Sec^{ry}*.

Die p^{dict}: In the House of Representatives Read & Concurr'd

JAM^s CONVERSE *Speaker*, —

[*Approved April 21, 1704.*

CHAPTER 122.

ORDER FOR APPOINTING A COMMITTEE TO HEAR COLONEL RÖMER AND OTHERS UPON THE ACCOUNTS OF EXPENSES AT CASTLE ISLAND, AND TO ADJUST THE SAME.

UPON READING a representation of Coll. Roomer, her majestie's engineer, that upon perusal of some papers he finds that the accompts of perticular persons contained in one general article of his grand accompt of expences at the castle are liable to sundry objections of unjust and unreasonable charges, —

April. 21st 1704. — In Council.

Ordered That Penn Townsend and Samuel Legg Esq^{rs} with such as shall be named by the House of Representatives be a Committee to hear Col^o Romer and the Creditors upon the within Representation and to State and regulate their Accompts according to bargain and Justice. That payment may be Ordered accordingly.

Sent down for concurrence

Is^a ADDINGTON *S.*

In the House of Representatives April 21. 1704 Read &

Ordered a Concurrence And That Cap^t Ephr^m Savage, Cap^t Sam^l Checkley & Cap^t Sam^l Phipps be of the Committee for the aff^{rs} afores^d

JAM^s CONVERSE *Speaker* —

[*Approved April 21, 1704.*

CHAPTER 123.

ORDER APPOINTING A COMMITTEE TO PURCHASE OF THE TREASURER TWO MORTARS AND A SUPPLY OF SHELLS FOR THE USE OF THE PROVINCE, TO BE PAID FOR OUT OF THE PROVINCE TREASURY.

Ordered That Cap^t Ephraim Savage, Cap^t Samuel Checkley, and Cap^t Samuel Phipps be a Co^mmittee to Treat with the Treasurer, and Purchase of him at the cheapest Rate they may, Two Mortar Pieces, and the shells that belong to them for the Service of the Province, their Cost to be Paid out of the publick Treasury. [*Approved April 21, 1704.*]

CHAPTER 124.

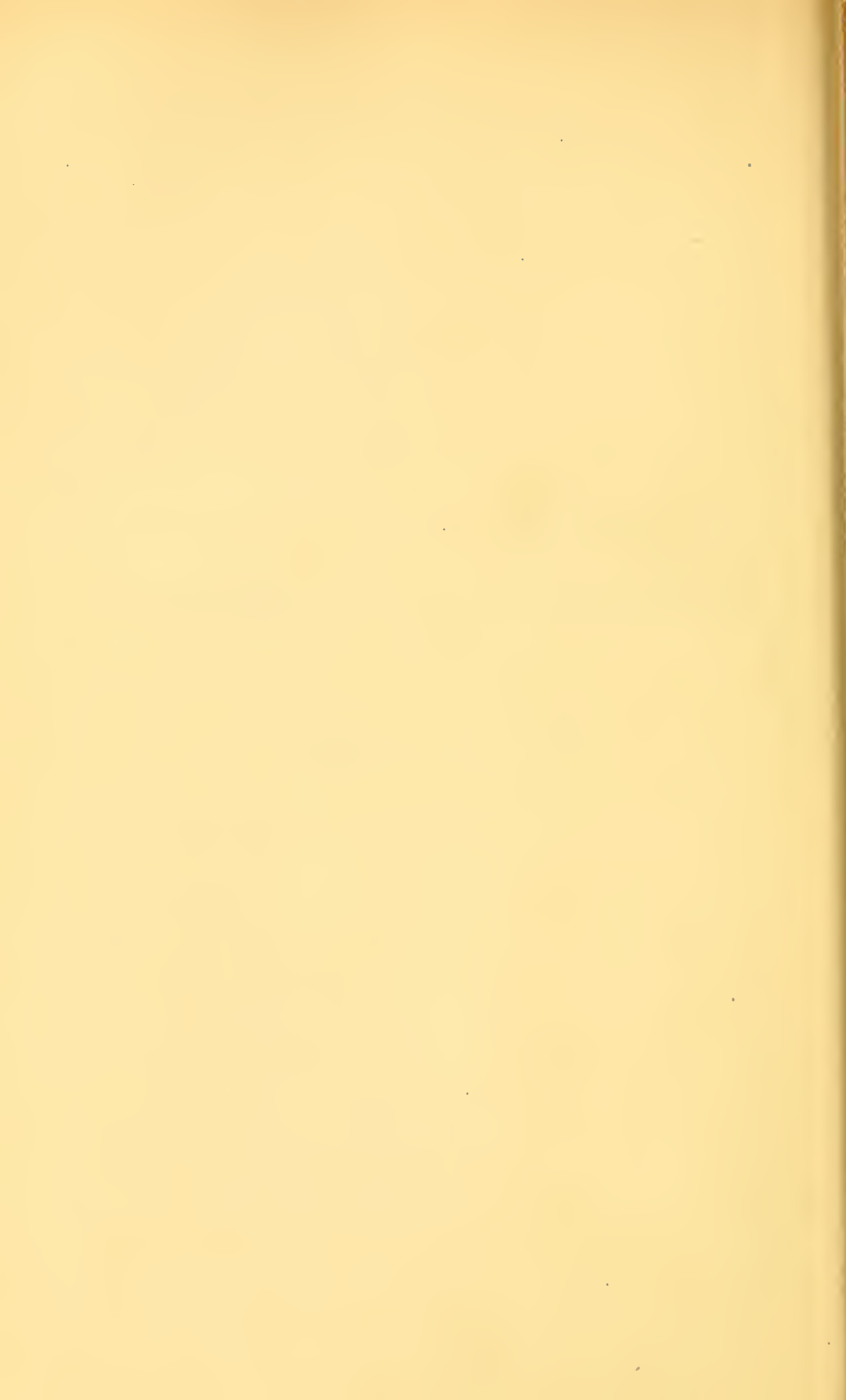
MESSAGE FROM THE HOUSE OF REPRESENTATIVES TO THE GOVERNOR, FOR A DAY OF PUBLIC FASTING AND PRAYER.

A MESSAGE was brought up from the Representatives, to pray his Excellency that a publick Fast might be appointed to seek God for Success to the Forces design'd to be sent forth. [*Passed April 21, 1704.*]



VOTES, RESOLVES, ORDERS,
ETC.,

PASSED 1704-5.



LEGISLATIVE LIST

FOR

1704-5.

HIS EXCELLENCY JOSEPH DUDLEY,
CAPTAIN-GENERAL, AND GOVERNOR-IN-CHIEF, ETC.*

THOMAS POVEY, Esq.,
LIEUTENANT- OR DEPUTY-GOVERNOR, ETC.

ISAAC ADDINGTON, Esq.,
SECRETARY OF THE PROVINCE.

COUNCILLORS OR ASSISTANTS.

Of the inhabitants of, or proprietors of, lands within the territory formerly called the Colony of the Massachusetts Bay:—

WAIT WINTHROP, Esq.,

JAMES RUSSELL, Esq.,

SIMEON STODDARD, Esq.,†

JOHN HATHORNE, Esq.,

ELISHA HUTCHINSON, Esq.,

SAMUEL SEWALL, Esq.,

WILLIAM BROWNE, Esq.,

* ISAAC ADDINGTON, Esq.,

JOHN PHILLIPS, Esq.,

JONATHAN CORWIN, Esq.,

JOHN FOSTER, Esq.,

SAMUEL HAYMAN, Esq.,‡

PENN TOWNSEND, Esq.,

JOHN HIGGINSON, Esq.,

ANDREW BELCHER, Esq.,

EDWARD BROMFIELD, Esq.,

SAMUEL LEGG, Esq.,

EPHRAIM HUNT, Esq.

Of the inhabitants of, or proprietors of, lands within the territory formerly called New Plymouth:—

JOHN WALLEY, Esq.,

JOHN THACHER, Esq.,§

ISAAC WINSLOW, Esq.,

NATHANIEL PAINE, Esq.¶

Of the inhabitants of, or proprietors of, land within the territory formerly called the Province of Maine:—

ELIAKIM HUTCHINSON, Esq.,

BENJAMIN BROWNE, Esq.,¶

JOSEPH HAMMOND, Esq.**

* For the full title, see vol. VII., p. 331.

† Elected June 14, in place of Elisha Cooke, who was chosen May 31, but negatived by the Governor.

‡ Elected June 14, in place of Peter Sergeant, who was chosen May 31, but negatived by the Governor.

§ "Thatcher," in the Secretary's list.

¶ "Payne," in the Secretary's list.

¶ "Brown," in the Secretary's list.

** Hammond's name is not subscribed to the qualifying oaths.

Of the inhabitants of, or proprietors of, land within the territory lying between the river of Sagadahoc and Nova Scotia: —

JOSEPH LYNDE, ESQ.

For the Province, at large: —

SAMUEL PARTRIDGE, ESQ.,

SAMUEL APPLETON, ESQ.

REPRESENTATIVES OR DEPUTIES.

May 31, 1704 to March 3, 1704-5.

MAJOR JAMES CONVERSE, SPEAKER.

COUNTY OF SUFFOLK.

<i>Boston,</i>	Mr. Thomas Oakes,
	Capt. Samuel Checkley,
	Capt. Ephraim Savage,
	Mr. Elizur Holyoke.*
<i>Roxbury,</i>	Mr. William Denison.
<i>Dorchester,</i>	Mr. Hopestill Clap.
<i>Milton,</i>	Capt. Thomas Vose.
<i>Braintree,</i>	Lient. John Baxter †
<i>Weymouth,</i>	Capt. Stephen French.
<i>Hingham,</i>	Mr. Theophilus Cushing.
<i>Dedham,</i>	Capt. Daniel Fisher.
<i>Medfield,</i>	Mr. John Metcalfe. ‡
<i>Woodstock,</i>	Mr. Philip Eastman. §

COUNTY OF MIDDLESEX.

<i>Charlestown,</i>	Capt. Samuel Phipps. ||
<i>Cambridge,</i>	Mr. Thomas Oliver.
<i>Watertown,</i>	Mr. John Sherman. ¶
<i>Woburn,</i>	Maj. James Converse, Esq.**
<i>Malden,</i>	Capt. Joseph Willson. ††
<i>Reading,</i>	Maj. Jeremiah Swayne. ‡‡

COUNTY OF MIDDLESEX — *Concluded.*

<i>Billerica,</i>	Mr. Thomas Richeson. §§
<i>Chelmsford,</i>	Capt. Jerahmeel Bowers.
<i>Concord,</i>	Mr. John Wheller. ||||
<i>Sudbury,</i>	Mr. John Balcom.
<i>Marlborough,</i>	Capt. Thomas How. ¶¶
<i>Newton,</i>	Mr. John Spring.
<i>Sherburne,</i>	Mr. William Rider.
<i>Dracut,</i>	Mr. Joseph Varnam.***

COUNTY OF ESSEX.

<i>Salem,</i>	Major Samuel Browne. †††
	Josiah Wolcott, Esq. ‡‡‡
<i>Lynn,</i>	John Burrill, Esq. §§§
<i>Marblehead,</i>	Capt. Edward Brattle.
<i>Beverly,</i>	Mr. Isaac Woodbery. |||||
<i>Gloucester,</i>	Ensign Nathaniel Coit. ¶¶¶
<i>Wenham,</i>	Deacon William Fiske.****
<i>Ipswich,</i>	Mr. Nehemiah Jewett. ††††
	Capt. William Goodhue.
<i>Rowley,</i>	Mr. John Dresser.

* "Holioko," in the Secretary's list.

† "Lient.," in the town records, but "Mr.," in the Secretary's list.

‡ "Metcalf," in the Secretary's list.

§ "Easman," in the Secretary's list.

|| "Phips," in the Secretary's list.

¶ The signature lacks the letter n.

** Not in the town records.

†† "Wilson," in the Secretary's list.

‡‡ "Swain," in the Secretary's list. There is no entry of his election this year in the town records.

§§ "Richardson," in the town records and in the Secretary's list.

||| "Wheeler," in the town records and in the Secretary's list.

¶¶ In the town records he is not called "Captain."

*** A signature nearly torn off, at the foot of the leaf, may have been his; but it is not certain that he was sworn.

††† "Major," in the town records, and "Brown," in the Secretary's list.

‡‡‡ "Wolcot," in the town records.

§§§ "Burrell," in the Secretary's list, but without the "Esq.;" and "Burrill," in the town records, and so signed by him.

|||| "Woodbury," in the Secretary's list.

¶¶¶ "Ensign," in the town records, but "Mr.," in the Secretary's list.

**** "Deacon," in the town records, but "Mr.," in the Secretary's list.

†††† Erroneously entered "Nathaniel," in the Secretary's list.

COUNTY OF ESSEX — *Concluded.*

<i>Topsfield,</i>	Sergeant John Hovey.*	<i>York,</i>
	Sergeant Daniel Redington.	<i>Kittery,</i>
<i>Boxford,</i>	Mr. Samuel Symonds.	
<i>Andover,</i>	Mr. John Chandler.	
<i>Haverhill,</i>	Mr. Samuel Watts.	
<i>Newbury,</i>	Deacon Cutting Noyes.†	
<i>Salisbury,</i>	Mr. Richard Hubbard.	
<i>Amesbury,</i>	Mr John Foott.‡	

COUNTY OF YORK.

Capt. Lewis Bane.
Ensign John Leighton.††

COUNTY OF PLYMOUTH.

<i>Plymouth,</i>	Capt. James Warren, Esq.‡‡
<i>Scituate,</i>	Mr. Samuel Clap.
<i>Marshfield,</i>	Mr. Samuel Sprague.§§
<i>Duxbury,</i>	Mr. Josiah Holmes.¶¶
<i>Bridgewater,</i>	Mr. David Perkins.¶¶

COUNTY OF BARNSTABLE.

<i>Barnstable,</i>	Mr. Samuel Hinckley.§
<i>Farmouth,</i>	Capt. Samuel Howes.¶
<i>Sandwich,</i>	Mr. Samuel Prince.
<i>Eastham,</i>	Mr. Samuel Knowles.

COUNTY OF BRISTOL.

<i>Bristol,</i>	Capt. Simeon Davis.
<i>Swansey,</i>	Mr. Ephraim Perce.***
<i>Rehoboth,</i>	Mr. Enoch Hunt,†††
	Mr. Benjamin Allen.
<i>Taunton,</i>	Capt. Henry Hodges.
<i>Little Compton,</i>	Joseph Church, Esq.‡‡‡
<i>Dartmouth,</i>	Mr. James Samson.§§§

COUNTY OF HAMPSHIRE.

<i>Springfield,</i>	Deacon John Hitchcock.¶
<i>Northampton,</i>	Capt. Preserved Clap.**
<i>Hadley,</i>	Mr. Daniel Marsh.

ISLAND OF NANTUCKET.

James Coffin, Esq.

JOHN WHITE, *Clerk.*JAMES MAXWELL, *Doorkeeper to the Governor and General Court.*

* By the town records, Sergeant John Hovey appears to have been chosen May 12, and Sergeant Redington on the ninth of June. As Hovey's signature is not found subscribed to the oaths, and as Redington did subscribe on the twelfth of June, it is probable that the former declined to serve, since he was living some years later.

† "Deacon," in the town records, but "Mr.," in the Secretary's list.

‡ "Foot," in the Secretary's list, and in the town records.

§ "Hinkley," in the Secretary's list.

¶ "Capt." and "House," in the town records, but "Mr." and "Hawes," in the Secretary's list.

¶¶ "Deacon," and "Hitchcocke," in the town records.

** "Clapp," in the town records.

†† "Ensign," in the town records, but "Mr.," in the Secretary's list.

‡‡ "Capt." without the "Esq.," in the town records

§§ The surname is omitted in the Secretary's list, but "Sprague" subscribed the oaths.

¶¶¶ "Joshua," in the Secretary's list, but subscribed "Josiah," and so in the town records.

¶¶¶ Erroneously entered "Daniel," in the Secretary's list.

*** "Pierce," in the Secretary's list, and "Pearce," in the town records.

††† Both Hunt and Allen subscribed the qualifying oaths. Allen was chosen May 15th; Hunt, who succeeded him, was chosen June 7th, as appears by the following entry in the town records:—

"Att a Town Meeting Lafully warned the seuenth day of June 1704, Then mett together & the Town Chose Capt Enoch Hunt [*sic*] serue for & Represent them in a greatt & Gen^l Court or Assembly (to be held & kept for her Maj^{ties} Service at the Town House att boston); in the Room of Benjⁿ Allin who is Ejected the house of Representatives."

The reason for the expulsion of Allen does not appear, since the House Journals for that period are not known to be in existence. If the records of the Court of Sessions for Bristol County prior to 1702 could be found they might afford an explanation. See note to the private act of Oct. 30, 1697, vol. VI., number 7, and compare the proceedings in Vesey's case, vol. VII., p. 332, note ¶.

††† "Mr.," in the town records, but "Esq.," in the Secretary's list.

§§§ "Sampson," in the Secretary's list.



VOTES, RESOLVES, ORDERS, ETC.

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTY-FIRST DAY OF MAY, A.D. 1704.

CHAPTER 1.

VOTE FOR PROCURING ONE HUNDRED AND TWENTY SHELLS, FOR
THE TWO MORTARS LATELY BOUGHT FOR THE USE OF THE
PROVINCE.

THE COUNCIL are* opinion, That there be One Hundred and twenty
Shells agreed for. Viz^t Sixty for Each Morter, of the two lately bought.
[Concurred in by the House, and passed June 2.]

CHAPTER 2.

RESOLVE FOR ALLOWING ONE HUNDRED AND SIXTY-FOUR POUNDS
ONE SHILLING AND FIVEPENCE OUT OF THE PROVINCE TREAS-
URY TO CAPTAIN GEORGE TURFREY, FOR DISBURSEMENTS MADE
BY HIM IN REPAIRING THE FORT AT SACO IN THE YEAR 1701.

THE ACCOMPTS of Cpt. George Turfrey's disburse in repairing of the
fort at Saco by order of the council in the year 1701, amounting to
one hundred sixty-four pounds one shilling and fivepence, was sent up
from the representatives with the *resolve* of the house thereupon; viz.,
that the said sum be paid out of the publick treasury, the allowing
this accompt to be no precedent for the future. [Concurred in by the
Council, and approved June 3.]

CHAPTER 3.

ORDER APPOINTING A COMMITTEE TO EXAMINE THE ACCOUNTS OF
JOHN USHER, LATE TREASURER OF NEW ENGLAND, ETC., AND TO
REPORT THEREON.

Ordered, That John Walley and Andrew Belcher, Esq^r., Cpt. Sam-
uel Checkley, Cpt. Samuel Phipps and Josiah Wolcott, Esq^r., be a

* Sic: "of" omitted.

committee to examine and inspect the accompts of John Usher, Esq^r, late treasurer of the territory of New England, and make report what they think proper to be done by this court concerning them, and to proceed therein forthwith. [*Passed June 7.*]

CHAPTER 4.

VOTE APPOINTING ELIAKIM HUTCHINSON, IN THE PLACE OF ANDREW BELCHER, UPON THE COMMITTEE ON THE ACCOUNTS OF JOHN USHER, LATE TREASURER OF NEW ENGLAND.

ELIAKIM HUTCHINSON, Esq^r, is named and appointed of the committee upon the accompts of John Usher, Esq^r, in the room of Andrew Belcher, Esq^r. [*Passed June 9.*]

CHAPTER 5.

ORDER APPOINTING A COMMITTEE TO REPORT WHAT MEASURES ARE PROPER TO BE TAKEN FOR CONFIRMING FRIENDSHIP WITH THE MAQUAS, ETC.

In the House of Representatives. June 8th 1704

Ordered — That M^r Thom^s Oakes, Josiah Wolcott Esq^r, Cap^t Thom^s Oliver, Cap^t Preserved Clapp, and John Burril Esq^r be a Committee to Joine Such as the Hon^{ble} Board shall Appoint, to Consider of and Propose to the Court what they Apprehend, proper to be done at this time, for the steadying, and Confirming of the Maqvas &c^a in their friendship.

Sent up for Concurrence.

JAM^s CONVERSE *Speaker*, —

June. 9th 1704. — In Council. Pass'd a Concurrence and

Vot^d That John Phillips Penn Townsend John Higginson and Andrew Belcher Esq^rs or any two or more of them, be a Committee of the Board for the Affair abovesaid. —

Is^a ADDINGTON *Secry*. —

[*Passed June 9.*]

CHAPTER 6.

RESOLVE FOR PAYING ONE HUNDRED AND FOURTEEN POUNDS SEVENTEEN SHILLINGS OUT OF THE PROVINCE TREASURY, TO MAKE GOOD THE LOSSES SUSTAINED BY CERTAIN MEMBERS OF THE COMPANY THAT ENCOUNTERED THE FRENCH AND INDIANS AT DEERFIELD, FEBRUARY 29, 1703-4; TO PROVIDE FOR THE WIDOWS OF THOSE WHO WERE THEN SLAIN; AND FOR DISTRIBUTING SCALP-MONEY, IN ADDITION TO PLUNDER, AMONG THE MEMBERS OF SAID COMPANY.

A RESOLVE pass'd in the house of representatives upon the petition of Jonathan Wells and Ebenezer Wright in behalf of the company who

encounter'd the French and Indians at Deerfield, in February past; viz., —

Resolved—That the Losses of the Petitioners, be made good, & Paid out of the publick Treasury to Such as Sustain'd them, according to their Acc^t herewith exhibited, amounting to the Sum of Thirty four pounds, & Seventeen shillings.

That the Summ of five Pounds be paid to each of the widows, of those Slain, mentioned in the List annexed being four in number.

And altho. but one Scalp of Indians Slain by them is Recovered, Yet for their Encouragem^t

That the Sum of Sixty Pounds, be allowed and Paid to the Petitioners, whose names are contained in the s^d List annexed as surviving for Scalp-money, to be eqvally Divided amongst them. Together with all Plunder whereof they give account [*Concurred in by the Council, and approved June 9.*]

CHAPTER 7.

VOTE ADVISING THE GOVERNOR TO RESIST THE INVASION OF THE FRONTIERS NEAR THE CONNECTICUT RIVER BY THE FRENCH AND INDIAN ENEMY.*

HIS EXCELLENCY communicated to the council letters received the last night from Albany viâ Northampton, advising of a body of French and Indians to the number of about five hundred that were upon their march towards the frontiers on Connecticut river, and sent them to the representatives, who after reading them return'd them with a message to desire his excellency to take care of those parts. [*Passed June 12.*]

CHAPTER 8.

VOTE FOR APPOINTING COMMISSIONERS TO RENEW THE TREATY OF AMITY BETWEEN THE MAQUAS, ETC., AND THIS PROVINCE, AND FOR PROVIDING SUITABLE PRESENTS FOR SAID INDIANS; ALSO REQUESTING THE GOVERNOR TO WRITE TO THE GOVERNORS OF NEW YORK AND CONNECTICUT TO COÖPERATE IN THE AFFAIR.

THE REPORT of the committee referring to the Maquas, etc., was sent up from the representatives, being in the words following; viz., —

The Committies are of opinion that there be two or three Sutable Gentlemen appointed to goe as Comisioners, for y^e Prouince of y^e Massathusets Bay to renew y^e antient amity between y^e Maquas & this Gouverment & y^t on y^e part of y^e prouince of Massathusets a sutable present be provided to be made to y^e Maquas &c about 200^l Value & y^t his Excelency be desired to write to his Excelency y^e Lord Cornebury Gouerner of New Yorke and the Honorable John Winthrop Esq^r Gou-

* This message of advice, being tantamount to a resolve of the House, is included here, although it has not been discovered that the Governor had occasion to detach any forces about this time to meet the enemy at the place designated. The concurrence of the Council is also inferred.

erner of Coniticot that they will please to Joyne with this Gouvern^t in the said Negotiation. w^{ch} is humbly Submitted.

Read and Accepted. (Saving there be but 2 Com^{iss}^{rs} sent) [*Concurred in by the Council, and approved June 14.*]

CHAPTER 9.

RESOLVE FOR ALLOWING AND PAYING THIRTY-THREE POUNDS FIFTEEN SHILLINGS AND EIGHTPENCE OUT OF THE PROVINCE TREASURY TO LIEUTENANT JOHN WYATT, IN FULL OF HIS ACCOUNT OF DISBURSEMENTS AT BLACK POINT.

Resolved, That the sum of thirty and three pounds fifteen shillings and eightpence be allowed and paid out of the publick treasury to Lieut. John Wyat in full of his accompt. [*Approved June 14.*]

CHAPTER 10.

RESOLVE FOR ALLOWING AND APPROVING THE PROVINCE TREASURER'S ACCOUNTS FROM MAY 26, 1703, TO MAY 31, 1704.

Resolved, That the said accompts, in the several articles of receipts and payments therein mention'd, amounting to the sum of twenty-six thousand nine hundred and two pounds four shillings, be and hereby are approved and allowed of, and the said treasurer is hereby discharged of the said sum of twenty-six thousand nine hundred and two pounds four shillings. [*Approved June 14.*]

CHAPTER 11.

ORDER AUTHORIZING JOSEPH BRIDGHAM, GUARDIAN OF EDMUND AND ELIZABETH MOUNTFORT, MINORS, TO SELL THEIR INTEREST IN THE REAL ESTATE OF THEIR GRANDFATHER, EDMUND MOUNTFORT, LATE OF BOSTON, DECEASED, TESTATE.

A PETITION of Joseph Bridgeham, guardian to Edmund and Elisabeth Mountforth, the two children of Edmund Mountforth, late of Boston, mariner, dec^d. (being both minors under the age of ten years), was read, therein praying to be impower'd by an act or order of this court on behalf of the said minors, to make sale of their one sixth part and interest of and in the dwelling-house, with the appurtenances, of their grandfather, Edmund Mountforth, sometime of Boston, shop-keeper, dec^d, scituate at the northerly end of the said town, descending to them in right of their said father, by vertue of the last will and testament of their grandfather aforesaid, and cannot admit of a parti-

tion and is not likely to be of advantage to the said minors by their holding the same,—

Ordered, That the prayer of the Petition be granted And the Petitioner is hereby Impowred to make Sale of the Interest & Share of the said Minors in the House wth y^e appur^{ces} therein mentioned And to Execute a Deed of Sale for the same.—[*Approved June 15.*

CHAPTER 12.

RESOLVE FOR PAYING EIGHT POUNDS NINETEEN SHILLINGS OUT OF THE PROVINCE TREASURY TO SAMUEL PHILLIPS FOR COPIES OF FAST-DAY SERMONS PRINTED BY HIM FOR THE USE OF THE PROVINCE.*

Resolved That the Sum of Eight Pounds nineteen shillings, be Paid out of the publick Treasury to M^r Sam^l Phillips in full of his Acc^t on the other Side [*Approved June 16.*

CHAPTER 13.

VOTE FOR PAYING FIVE POUNDS TWELVE SHILLINGS OUT OF THE PROVINCE TREASURY TO BENJAMIN ELIOT FOR COPIES OF SERMONS PRINTED BY HIM FOR THE USE OF THE PROVINCE.†

Voted that the Sum of five pounds Twelve Shillings: be paid out of y^e Province Treasury to M^r Benjamin Elliot for y^e books aboue mentioned. [*Approved June 16.*

CHAPTER 14.

RESOLVE FOR PAYING TEN POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF YORK TOWARDS THE SUPPORT OF SAMUEL MOODY, MINISTER OF SAID TOWN, AND FOR GRANTING SAID TOWN A FURTHER ALLOWANCE OF FIVE POUNDS OUT OF THE PROVINCE TAX LAST LEVIED ON SAID TOWN, FOR THE TOWN'S EXPENSES IN AID OF ABRAHAM STEVENS, A SICK SOLDIER.

Resolved, That there be paid out of the publick treasury ten pounds towards the support of M^r Samuel Moodey, minister of the town of York; and further, that there be allowed unto the town of York five pounds out of the tax levied on them the last year, for their disburse^{mt}s on Abraham Stevens, a sick soldier. [*Approved June 16.*

* In the record, this and the following chapter are included in one resolve made up by the Secretary from the two distinct resolves here printed from the archives. Each of these original resolves was written at the foot of the bill which the printer sent in; and although the claim of Phillips was clearly for £8, 19s. 2d., only £8, 19s. was allowed him, which appears also in the record, and in the charge of this item in the province treasurer's accounts.

† See note to chapter 12, *ante*.

CHAPTER 15.

RESOLVE FOR ALLOWING AND PAYING THREE HUNDRED POUNDS TO JOSEPH DUDLEY FOR HIS SERVICES AS GOVERNOR, ETC.

Resolved—That the Sum of Three Hundred Pounds be Allowed, and Paid out of the Publick Treasury to His Excellency Joseph Dudley Esq^r Capt^l Gener^l and Governour in Chief of this Her Majestie's Province, for and towards his Support in the Government. [*Approved June 17.*]

CHAPTER 16.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO JAMES TAYLOR, TREASURER OF THE PROVINCE, FOR HIS SERVICES DURING THE YEAR 1703-4.

Resolved, That the sum of two hundred pounds be allow'd and paid out of the publick treasury to M^r James Taylour, treas^r, for his service in the said office the year past. [*Approved June 17.*]

CHAPTER 17.

RESOLVE FOR ALLOWING AND PAYING EIGHT POUNDS OUT OF THE PROVINCE TREASURY TO MARY SIMPSON, WIDOW, FOR PORK FOR THE USE OF THE PROVINCE.

A RECEIPT of Cpt. Simon Willard for 1,645 lb. of pork had of Mary Simpson, widow, for the service, was sent up from the representatives with the resolve of that house thereupon; viz., —

Resolved, That the sum of eight pounds be allow'd and paid out of the publick treasury to Mary Simpson, widow, for the pork mentioned in the said receipt. [*Concurred in by the Council, and approved June 20.*]

CHAPTER 18.

ORDER FOR TRANSMITTING TO THE COMMISSARY-GENERAL THE ACCOUNTS OF BILLETING, AND FOR THE SUBSISTENCE OF, FORCES OCCASIONALLY MUSTERED, AND MARCHING FROM TOWN TO TOWN. [*Approved June 22.*]

[*Printed in the postscript to vol. I., of the Province Laws, page 901.*]

CHAPTER 19.

ORDER FOR POSTING AT WOODSTOCK, AT THE CHARGE OF THIS PROVINCE, ONE-HALF OF THE PARTY OF SCOUTS FROM CONNECTICUT, UNDER THE COMMAND OF MAJOR JAMES FITCH, TO RELIEVE THE MASSACHUSETTS MEN IN SERVICE THERE.

An order pass'd by the representatives in compliance with a proposal made by Major James Fitch, referring to a scout of thirty soldiers from Connecticut under his direction, that one-half of them be posted as a standing party at Woodstock, to be subsisted at the charge of this province, and the soldiers of this province posted there to be dismiss'd. [Concurred in by the Council, and passed June 22.]

CHAPTER 20.

ORDER APPOINTING A COMMITTEE TO VIEW THE FORTIFICATIONS ON CASTLE ISLAND AND TO REPORT WHAT OUGHT FURTHER TO BE DONE TO FINISH SAID WORKS.

In the House of Representatives. June 16 1704

Ordered That Maj^r Samuel Brown, M^r Samuel Clapp, and Captain Ephraim Savage, be a Committee to Go down to the Castle, (with his Excellency's leave) To view the works there, Consider, and Compute with the Committee for fortifying the Castle, what is further necessary for finishing the s^d works, and make Report to the House.

JAM^s CONVERSE *Speaker*

June. 22^d 1704. In Council. Read, and John Higginson and Samuel Appleton Esq^s be added to the Committee. And to attend too morrow at Seven in the morning.

ISA^A ADDINGTON *Sec^{ry}*.—

[*Passed June 22.*]

CHAPTER 21.

RESOLVES DECLARING THAT THE PENALTY IN THE FIRST SECTION OF THE ACT FOR THE BETTER OBSERVATION AND KEEPING THE LORD'S DAY EXTENDS TO SUCH AS NEGLECT RELIGIOUS EXERCISES AS WELL AS TO SUCH AS ENGAGE IN LABOR OR RECREATION, AND THAT THE POWER OF RESTRAINT GIVEN TO JUSTICES, ETC., BY THE SIXTH SECTION, INCLUDES THE POWER TO IMPRISON, OR SET IN THE CAGE OR STOCKS. [*Approved June 23.*]

[*Printed in the note to the act of October 22, 1692.*]

CHAPTER 22.

ORDER APPOINTING A COMMITTEE TO PROCURE, FORTHWITH, A SUITABLE VESSEL TO SEND EXPRESS TO THE QUEEN, TO REPRESENT THE DISTRESSED STATE OF THE PROVINCE, ETC.

In the House of Representatives. June 23: 1704.

Ordered That a Suitable vessell be Taken up, and sent Expresse: humbly to Represent to Her Majesty, the Distressed state of this her Province. &c^a

That Cap^t Samuel Checkley and Josiah Wollcott Esq^r be a Committee to Joine with such as the Hon^{ble} Board shall Appoint to Inquire and agree for a Suitable vessell for the s^d service and Report the Same to this Court. That the Committee forth with Proceed upon the s^d affair and Dispatch it without Delay.

Sent up for Concurrence

JAM^s CONVERSE *Speaker*,

Pass'd a Concurrence and John Foster and Andrew Belcher Esq^r Appoint^d a Committee of the Board in that Affayre.

Die p^{dict}.

Is^a ADDINGTON *Sec^{ry}*.—

[*Passed June 23.*

CHAPTER 23.

ORDER APPOINTING COMMISSIONERS, UNDER THE VOTE OF JUNE 14, TO NEGOTIATE WITH THE MAQUAS, ETC.*

Ordered That Penn Townsend and John Leverett Esq^r be Commission^{rs} for the Negotiation with the Maquas &c^a [*Passed June 23.*

CHAPTER 24.

RESOLVE FOR ALLOWING OUT OF THE PROVINCE TREASURY THE ADDITIONAL SUM OF THREE HUNDRED POUNDS TO COMPLETE THE FORTIFICATIONS AT CASTLE ISLAND, ETC.

Resolved That the Sum of Three Hundred Pounds, and no more be further allowed out of the Publick Treasury to finish the works at the Castle.

That the long room for Lodgings be in the first place finished, and the remainder of the S^d sum Improved to finish those works which are of most necessity, in the abovementioned Computation.

That Thô. Brattle Esq^r & Cap^t Timothy Clarke be Impowered to Receive and Lay out the S^d Sum accordingly; and Proceed to no other works than what are abovesaid without order from this Court. [*Approved June 24.*

* See chapters 5 and 8, *ante*.

CHAPTER 25.

ORDER DIRECTING THE COMMISSARY-GENERAL TO SUPPLY THE FRENCH PRISONERS OF WAR IN BOSTON JAIL WITH CLOTHING.*

Ordered, That the commissary-general do forthwith and immediately supply the French prisoners of war now in the goal, each with a shirt and pair of canvas breeches. [*Passed June 24.*]

CHAPTER 26.

REPORT OF THE COMMITTEE APPOINTED BY THE ORDER OF JUNE 23^d TO PROCURE A SUITABLE VESSEL TO DESPATCH TO THE QUEEN.

THE COMMITTEE appointed to agree for a suitable vessel to be sent express for England reported, —

the Comitte. are humbly of Opinion that Its adviseable to purchas a Bark of about. 40. tonns belonging to M^r More w^{ch} may be purchased for: 130. Or. 140. pounds. w^{ch} wee Judge will Suit the Occasion & is much Cheaper then any oth^r we haue been treating with.

JOHN FOSTER p order and in behalf of the Comitte —

June. 27th 1704: — Read and Accepted. And the Gent^l desired to pursue it.

Sent down for concurrence.

= IS^a ADDINGTON *Secry.* —

Die pdict. Read In the House of Representatives. & Pass'd a Concurrence [*Passed June 27.*]

CHAPTER 27.

ORDER REFERRING TO THE NEXT SESSION OF THE GENERAL COURT THE PETITION OF JOSEPH HILL, ATTORNEY TO ANTHONY PENN, HEIR-AT-LAW OF WILLIAM PENN, LATE OF BRAINTREE, DECEASED, FOR THE REVIVAL OF SEVERAL ACTIONS BROUGHT BY SAID HILL, IN THE SUPERIOR COURT OF JUDICATURE, AGAINST THOMAS FRENCH AND OTHERS; AND FOR NOTIFYING THE ADVERSE PARTIES, ETC.

A PETITION of Joseph Hill, attorney to Anthony Penn of Bromingham, heir-at-law to William Penn, late of Braintree, dec^d, praying an act of this court for the revival of several actions brought by him on behalf of the said Anthony Penn, late in the superiour court of judicature, against Thomas French, Samuel French and John Bowditch, was sent up from the representatives with the order of that house thereon; viz., —

Ordered That the Petition abovewritten be referred to further Con-

* It is not certain that this order was concurred in by the House; but since it is on record, without anything in the archives to make it clear that it was merely an executive order, as it properly should have been, it is here included with other legislative proceedings which received the concurrence of both branches.

† See chapter 22, *ante*.

sideration, at the Second wednesday of the next Session of this Court, and That Thomas french, Samuel french, and John Bowdidge, be in the mean time Notified of the Said Petition. [*Concurred in by the Council, and approved June 28.*]

CHAPTER 28.

ORDER FOR REGULATING THE GRANTING OF DEBENTURES, ETC., BY MILITARY OFFICERS, ETC. [*Approved June 29.*]

[*Printed in the postscript to vol. I., of the Province Laws, page 901.*]

CHAPTER 29.

ORDER FOR PRINTING WITH THE ACT FOR PUNISHING OFFICERS OR SOLDIERS, ETC., THE ORDER OF JUNE 22, RELATING TO THE ACCOUNTS OF BILLETING,* AND THE ORDER OF JUNE 29, RELATING TO DEBENTURES.† [*Approved June 29.*]

[*Printed in the note to the act of September 9, 1703-4.*]

CHAPTER 30.

RESOLVE FOR PAYING NINETY-FOUR POUNDS SIX SHILLINGS AND SEVENPENCE TO JAMES RUSSELL, TO DISCHARGE HIS ACCOUNT AS COMMISSIONER OF IMPOST.

AN ACCOMPT of James Russell, Esq^r, commissioner of impost, with a resolve of the house of represent^{res} pass'd thereon, sent up; viz.,—

Resolved, That the sum of ninety-four pounds six shillings and sevenpence be paid out of the publick treasury to James Russell, Esq^r, to discharge the above-mention'd accompt. [*Concurred in by the Council, and approved June 29.*]

CHAPTER 31.

RESOLVE FOR ABATING THE EXCISE DUE BY JAMES RUSSELL AS A RETAILER OF STRONG DRINK, AND FOR ALLOWING AND PAYING HIM FORTY POUNDS SIXTEEN SHILLINGS AND EIGHTPENCE FOR HIS SERVICES AS COMMISSIONER OF THE IMPOST TO JUNE 23, 1704.

A PETITION of James Russell, Esq^r, commiss^r of impost, with a resolve thereupon, pass'd by the house of representatives, sent up; viz.,—

Resolved That the sum of forty shillings which the Petitioner is

* Chapter 18, *ante*.

† Chapter 28, *ante*.

oblig'd to Pay for his Licence to Retaile Strong Drink be Abated to him. And That the Sum of Forty Pounds, Sixteen shillings, and eight pence, be Allowed, and Paid out of the publick Treasury to the Petitioner in full for his Service as Commiss^r of Impost, untill the 23^d Day of the present month. [*Concurred in by the Council, and approved June 29.*]

CHAPTER 32.

RESOLVE FOR ALLOWING AND PAYING ONE HUNDRED AND TWENTY POUNDS TO THOMAS POVEY FOR HIS SERVICES AS COMMANDER OF THE CASTLE DURING THE CURRENT YEAR, BEGINNING JUNE 10, 1704.

Resolved—That the Sum of Six score Pounds be allowed, and Paid, out of the publick Treasury to the Hon^{ble} Thomas Povey Esq^r Command^r of Her Maj^{ties} Castle at Castle Island, for the Year Currant beginning the tenth day of the present month. Provided that he be upon the place at least three daies in a week, and as 'oft else, as extraordinary occasions, call for him, except in Case of Sicknesse, or something extraordinary may happen, or such time in the winter, as he may obtain leave for, from the Captain Generall or Commander in chief for the time being. [*Approved June 30.*]

CHAPTER 33.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS, EACH, TO SAMUEL SEWALL, JOHN HATHORNE, JOHN WALLEY AND JOHN LEVERETT, JUSTICES OF THE SUPERIOR COURT, ETC., FOR THEIR SERVICES DURING THE YEAR ENDING JULY 10, 1704.

Resolved—That there be Allowed and Paid out of the publick Treasury to the Hon^{ble} Sam^l Sewall, John Hathorne, John Walley and John Leverett Esq^{rs} Judges of the Super^r Court to each of them, the Summ of Forty Pounds, for their Service the Year currant expiring the tenth day of July next. [*Approved June 30.*]

CHAPTER 34.

RESOLVE FOR ALLOWING AND PAYING FOURTEEN POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, IN PART, FOR HIS SERVICES DURING THE CURRENT YEAR.

Resolved, That the sum of fourteen pounds be allowed and paid out of the publick treasury to M^r John White, clerk of this house, in part for his service the year currant. [*Concurred in by the Council, and approved June 30.*]

CHAPTER 35.

VOTE FOR PAYING THE EXPENSES OF THE COMMISSIONERS APPOINTED JUNE 23 * TO NEGOTIATE A TREATY WITH THE MAQUAS, ETC., AND FOR ALLOWING EACH OF THEM FORTY POUNDS FOR THEIR SERVICES.

In Council. June ult. 1704.

Proposed, That the Commission^r for Albany have their Expence born, and Fifty pounds Advanced towards it.

That they be paid Each Forty pounds. [*Fifty pounds*][†] for their Service. —

In the House of Representatives June ult 1704 Read. and *agreed* wth the Amendm^t annex'd[†]

NEHEMIAH JEWETT *Speaker p Tempore*

Die pdict. Agreed to :
[*Approved June 30.*

Is^A ADDINGTON *Secry*

CHAPTER 36.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS TO CAPTAIN ZECHARIAH TUTHILL, LIEUTENANT OF THE CASTLE, FOR HIS SERVICES DURING THE CURRENT YEAR.

Resolved — That the Summ of Forty Pounds be Allowed, and Paid out of the publick Treasury unto Capt^t Zechariah Tuthill, Lieutenant of the Castle for his Service the Year currant. beginning from the Date of his Commission. [*Approved June 30.*

CHAPTER 37.

RESOLVE FOR ALLOWING AND PAYING THIRTY POUNDS TO JAMES MAXWELL FOR HIS SERVICES AS DOORKEEPER TO THE GOVERNOR AND GENERAL COURT, FOR ONE YEAR, ENDING JUNE 8, 1704.

Resolved, That the sum of thirty pounds be allowed and paid out of the publick treasury to M^r James Maxwell, doorkeeper to his excy the govern^r and this court, for his service the year past, ending the eighth day of this present month. [*Approved June 30.*

CHAPTER 38.

RESOLVE FOR PRINTING AND EMITTING FIVE THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT, AND FOR GRANTING A TAX OF TEN THOUSAND POUNDS. [*Approved June 30.*

[*Printed in the notes to the acts of the year 1704-5.*]

* Chapter 23, *ante*.

† The amendment was the substitution of the words "forty pounds" for "fifty pounds" in the second paragraph.

CHAPTER 39.

ORDER APPOINTING A COMMITTEE TO PROCURE A SUITABLE VESSEL TO SEND EXPRESS TO ENGLAND, ETC.

In the House of Representatives — June *ult* : 1704

Ordered — That M^r Thomas Oakes Cap^t Samuel Checkley, & Cap^t Ephraim Savage. be a Com^{it}tee in the absence of this Court to Joine with Such as the Hon^{ble} Board shall Appoint in Taking up a suitable vessell to Send Expreesse for England

And also to do what Shall be thought most profitable for the Publick either in Lading or not Lading the s^d vessell at the publick charge.

Sent up for Concurrence. NEHEMIAH JEWETT. *speaker* & *Tempore*

In Council. June *ult*. Read and concurr'd

Is^t ADDINGTON *Sec^{ry}*. —

pr^o July*. 1704. John Foster and Andrew Belcher Esq^s named by the Council a Committee of the Board for the Affayr aboves^d —

Is^t ADDINGTON *Sec^{ry}*. —

[*Approved June 30.*]

CHAPTER 40.

ORDER FOR APPOINTING A COMMITTEE TO PREPARE THE DRAUGHT OF AN ADDRESS AND MEMORIAL TO THE QUEEN, ETC.

Ordered — That an Adresse and Memoriall be Sent in the Name of this Court to her Maj^{ty} by the Expreesse ordered humbly Representing the present state of this Province, and Praying her Majesty's Royall favour, & Bounty in Such articles as shall be thought proper.

That M^r Speaker Converse, M^r Thomas Oakes, Cap^t Sam^l Checkley, Cap^t Ephraim Savage, and John White, be a Com^{it}tee in the absence of this Court, to Joine with Such as the Hon^{ble} Board shall Appoint, in Preparing such an Adresse, and Memoriall, which when agreed upon, are to be signed by the Speaker in the name of this House.

Sent up for Concurrence. NEHEMIAH JEWETT. *speaker* & *Tempore*
In Council. June. *ult*. 1704. Read and Concurr'd.

Is^t ADDINGTON, *Sec^{ry}*. —

Committee of the Council. —

John Foster — } Esq^s

Andrew Belcher } Esq^s

& the Secretary. — [*Approved June 30.*]

* The date of approval of this order is here given as of the last day of the session, which, on the thirtieth of June, was prorogued to the sixteenth of August. The Governor did not affix his signature to the order, although the Secretary in his record makes it appear that he did so. The members of the committee, on the part of the Council, were nominated in executive session on the first day of July, as appears by the following entry under that date: —

"Pursuant to a vote of the assembly nameing a com^{it}tee of their members to joine with a committee of the board to transact the affair of takeing up and dispatching a suitable vessel express to her majesty,

Ordered, That John Foster and Andrew Belcher, Esq^{rs}., do joine the committee of the assembly for that affair and sit *de diem in diem*." — *Executive Records of the Council*, vol. 4, p. 34.

RESOLVES, VOTE, ORDER, ETC.

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SIXTEENTH DAY OF AUGUST, A.D. 1704.

CHAPTER 41.

RESOLVE FOR EMITTING SEVEN THOUSAND POUNDS IN BILLS OF
PUBLIC CREDIT. [*Approved August 17.*]

[*Printed in the notes to the acts of the year 1704-5.*]

CHAPTER 42.

REPORT OF THE SECOND COMMITTEE APPOINTED* TO PROCURE A
SUITABLE VESSEL TO SEND EXPRESS TO ENGLAND, ETC., AND THE
VOTE ACCEPTING THEREOF.

PURSUANT to an Order of the Gen^l Assembly in June last, appoint-
ing us a Committee in their absence, to take up a suitable vessell to
send Expreſſe for England

And also to do what should be thought most profitable for the Pub-
lick, either in Lading or not Lading the s^d vessell at the publick
charge.

Upon the 4th day of July we Took up for the S^d Service, a new Sloop
called the Sea-flower, owned by Andrew Belcher Esq^r & John Welch
the present master of the s^d sloop, She is well built for sailing,
having Six Guns mounted, & compleatly fitted for the sea.

We have shipped on Board the s^d Sloop upon the proper Acc^o &
Risque of the Provinces, such a Cargo, as we thought would be most
profitable, which with the victualling of the s^d sloop amounts to the
sum of £,410, 15, 3. And have agreed with the s^d Owners, to Pay thirty
Pounds p month during the voyage, for the Hire of the s^d Sloop. and
in Case of her being Taken by the Enemy her prime Cost viz^t
£,580, 2, 6 — is to be made good to the Owners by the Publick Cap^t
Nathan^l Carey, is App^{ed} by his Excellency the Governour, & Coun-
cill, to manage the affair upon which s^d vessell is sent, and to Dispose
of the s^d Cargo to the best advantage, who is to have his wages untill
his Return, altho: he should be taken, viz^t eight Pounds p month

The Master, and Sailers are to have the wages usually given, in
Merchants Impliment.

Boston y^e 18th day of July 1704

THOMAS OAKES

SAM^l^l CHECKLEY

EPHRAIM SAVAGE

JOHN FOSTER

AND^h BELCHER

Read and Accepted [*Approved August 18.*]

* Chapter 39, *ante*.

CHAPTER 43.

VOTE ACCEPTING THE REPORT OF THE COMMITTEE APPOINTED TO AUDIT THE ACCOUNTS OF ANDREW BELCHER, COMMISSARY-GENERAL, AND DECLARING THAT THE BALANCE DUE TO HIM IS EIGHT HUNDRED SIXTY-FIVE POUNDS TWELVE SHILLINGS AND SIXPENCE.

JOHN WALLEY, Esq^r, and Cpt. Samuel Checkley, appointed an audit to examine the accompts of Andrew Belcher, Esq^r, commissary-general, reported upon the said accompts, beginning the 30th of October, 1703, including an article of eighteen hundred and twenty-five pounds eighteen shillings and eleven pence, the ballance of his former accompt, and carried down to the 31st of July past, amounting in the whole to the sum of ten thousand seven hundred and eleven pounds three shillings, that there is due to the said Andrew Belcher for ballance on the said 31st of July, the sum of two thousand eight hundred sixty-five pounds twelve shillings and sixpence; w^{ch} report was read and, —

Voted an acceptance, and a warrant having since issued to the treasury for payment of two thousand pounds to the said Andrew Belcher, Esq^r, there rests due to him for ballance to the said 31st of July, only eight hundred sixty-five pounds twelve shillings and sixpence. [*Approved August 18.*]

CHAPTER 44.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO ANDREW BELCHER FOR HIS SERVICES AS COMMISSARY-GENERAL DURING THE YEAR PAST.

Resolved — That the Sum. of Two Hundred Pounds be Allowed and Paid out of the Publick Treasury to Andrew Belcher Esq^r Commissary Generall for his good service in the s^d office the year past. [*Approved August 19.*]

CHAPTER 45.

RESOLVE FOR ALLOWING COMPENSATION TO THE COMMITTEE APPOINTED TO SUPERINTEND THE PRINTING OF THE BILLS OF PUBLIC CREDIT.

Resolved — That a Compensation be Given to the Committee appointed to make and Imprint Credit Bills, proportionable to what Trouble they are at more in Printing the last five Thousand Pounds of s^d Bills by reason of a greater Proportion of small Bills than was Ordered to be in the last Ten Thousand Pounds of s^d Bills which they made. [*Approved August 19.*]

CHAPTER 46.

ORDER FOR ALLOWING THIRTY-SIX POUNDS NINETEEN SHILLINGS
AND FOURPENCE FOR PAPER AND OTHER MATERIALS USED IN
PRINTING THIRTY-ONE HUNDRED SHEETS OF THE BILLS OF PUB-
LIC CREDIT.

AN ACCOMPT of the charge for paper and other materials, and for the printing of three thousand and one hundred sheets of the bills of credit the last spring, amounting to thirty-six pounds nineteen shillings and fourpence, sign'd by James Russell, Esq^r, for the committee, was sent up from the representatives with the order of that house thereupon; viz^t, —

Ordered, That the above accompts be allowed and pass'd. [*Con-
curred in by the Council, and approved August 19.*]

ORDERS, RESOLVES AND VOTES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-FIFTH DAY OF OCTOBER, A. D. 1704.

CHAPTER 47.

ORDER FOR ADJUSTING THE ACCOUNTS OF EXPENSES ATTENDING
THE CAPTURE, TRIAL, ETC., OF THE PIRATES, CAPTAIN QUELCH
AND COMPANY, AND SECURING THEIR TREASURE.*

Ordered, That the accompts of the charge arising for the seizing and securing Cpt. Quelch and company for committing of felony and piracy, with their treasure, and upon their trial and condemnation, be adjusted and stated upon the first of November next. [*Passed October 26.*]

CHAPTER 48.

RESOLVE FOR ALLOWING AND PAYING OUT OF THE PROVINCE
TREASURY FOUR POUNDS, EACH, TO JOHN SHEPLEY AND SAMUEL
BUTTERFIELD, IN FULL, FOR THE SCALP OF AN INDIAN KILLED
BY THEM AT GROTON IN THE SUMMER OF 1704.

Resolved, That there be allow'd and paid out of the publick treasury to John Shipley of Groton, and Samuel Butterfield, the sum of four pounds, each, for the scalp of one of the Indian enemy, being a man by them kill'd at Groton aforesaid in the summer past, and that no other or further sum be allowed for killing the said Indian. [*Approved October 27.*]

CHAPTER 49.

RESOLVE FOR ALLOWING AND PAYING SIXTY POUNDS OUT OF THE
PROVINCE TREASURY TO JAMES TAYLOR FOR TWO MORTARS AND
TWENTY-ONE SHELLS PURCHASED OF HIM FOR THE USE OF THE
PROVINCE.†

Resolved That the Sum of Sixty Pounds be Allowed & Paid out of the publick Treasury to M^r Jam^s Taylor Treasurer for Two Mortar Pieces and Twenty one shells bought of him by a Committee of this Court for the use of this Province. [*Approved October 28.*]

* It is not certain that this was the act of both branches; but, on the other hand, nothing has been found in the archives or the records to show that it was solely the order of the Council. The adjustment was made by the Council in executive session; but the Governor gave to the representatives an account of the proceedings against the pirates, and both branches joined in the address to the queen accompanying a copy of this account sent home to be passed upon by the Privy Council.

† See order, 1703-4, chapter 123, and note.

CHAPTER 50.

VOTE FOR APPROVING AND ALLOWING THE PROVINCE TREASURER'S ACCOUNTS OF TRADE WITH THE EASTERN INDIANS, FROM MAY 26, 1703, TO OCTOBER 23, 1704.

M^r JAMES TAYLOR his Acco^t of the Trade to the Eastern Indians. Begining the 26th of May 1703 & continueing unto the 23th Octob^r 1704 amounting unto the sum of fourteen hundred Sixty Six Pounds nineteen Shillings haveing been presented and laid before the house of Representatives and inspected by s^d house. By which it appears that y^e Ballance of s^d Accompt. is Ten hundred Pounds Stock remayning in said Taylors hands. —

Voted. In the House of Representatives that y^e s^d Accompt is Allowed and approved of. and that the said Ballance or Stock remayning in s^d Taylor's hands bee transmited unto the Creditt of the Province Accompt [*Concurred in by the Council, and approved October 28.*]

CHAPTER 51.

ORDER DIRECTING THE TREASURER TO PAY TWO POUNDS ELEVEN SHILLINGS AND FIVEPENCE OUT OF THE PROVINCE TREASURY TO CAPTAIN GEORGE TURFREY, BEING THE AMOUNT OF A DEBENTURE ISSUED TO WILLIAM LUCAS, NOW A CAPTIVE AMONG THE INDIANS, FOR HIS WAGES WHILE HE WAS IN THE SERVICE, ETC.

Ordered That The Treasurer be Directed to Pay to Cap^t George Turfrey or order the sum of Two Pounds eleven shillings & fivepence, the sum due to Will^m Lucas, by a Debentur Dated May 10th 1704 for the time he was in the Service under L^t John Wyatt, It appearing that he had Taken up to that value in clothing of s^d Turfrey, & was since carried captive by the Indian Enemy, & not yet Returnd. [*Approved - October 31.*]

CHAPTER 52.

ORDER AUTHORIZING THEODOSIA CLARKE OF BOSTON, A MINOR, WITH THE ADVICE AND CONSENT OF HER MOTHER, TO CONVEY HER INTEREST IN A CERTAIN MESSAGE IN BOSTON WHICH SHE INHERITED, AS COPARCENER, FROM HER GRANDFATHER, THOMAS CLARKE, DECEASED.*

UPON READING the petition of Theodosia Clark, one of the daughters and co-heirs of Thomas Clark, late of Boston, mariner, dec^d, setting forth that her sister Hannah, wife of John Maudesley, and herself, are entituled as coparceners in right of their father, to one third part of a certain message or tenement scituate in Boston, parcel of the estate

* See the private act of June 12, 1712, vol. VI., number 29.

of their grandfather, Thomas Clark, sometime of Boston, shopkeeper, dec^d, and both of them being desirous to dispose and make sale of their interest therein, for their better improvement and advantage, and having now an opportunity for the same, the petitioner being but nineteen years old, praying that she may be enabled by a special act or order of this court to join with her said sister in making sale of the premisses, and in due manner to execute a deed for the conveyance thereof, with the advice and approbation of her mother, M^{rs} Judith Clark, —

Ordered That the Petitioner Theodosia Clarke be enabled by and with the Advice and Consent of her mother Judith Clarke, to Execute a good and sufficient Instrument in the Law, as if She were of full age, for alienating of her Interest in the within mentioned messuage or Tenement; The other Partner having the Pre Emption. — [*Approved November 1.*]

CHAPTER 53.

RESOLVE FOR ALLOWING AND PAYING TWENTY-ONE POUNDS OUT OF THE PROVINCE TREASURY TO CALEB LYMAN OF NORTHAMPTON, FOR KILLING SEVEN OF THE INDIAN ENEMY AND BRINGING IN SIX OF THEIR SCALPS.

A PETITION of Caleb Lyman of Northampton, sent up from the representatives, setting forth that himself, with five friend Indians, being sent forth into the wilderness on discovery of and to do execution upon the enemy, slew seven of the Indian enemy and brought in six of their scalps, praying a reward for their good service, with the resolve of that house thereon; viz., —

Resolved Inasmuch as no Law Provides a Suitable Reward for the service of the Petitioner yet for the Encouragem^t of the Petitioner and others to Enterprize the like undertaking

That the sum of Twenty one Pounds be allowed & Paid out of the publick Treasury to the Petitioner [*Concurred in by the Council, and approved November 1.*]

CHAPTER 54.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL PARTRIDGE TO REIMBURSE HIM THE AMOUNT HE PAID TO FIVE INDIANS WHO ASSISTED CALEB LYMAN IN KILLING SIX OF THE INDIAN ENEMY.

Resolved — That the Sum of Ten Pounds be Allowed, and Paid out of the publick Treasury to the Hon^{ble} Sam^l Partridge Esq^r to Reimburse him, that Sum which he gave to five Indians, that assisted Caleb Liman in killing six of the Indian Enemy. [*Approved November 1.*]

CHAPTER 55.

RESOLVE FOR SENDING A CHAPLAIN TO THE TOWN AND GARRISON AT DEERFIELD, AND FOR ALLOWING HIM TWENTY POUNDS OUT OF THE PROVINCE TREASURY FOR HIS SERVICES FOR SIX MONTHS.

Oct^o ult. 1704.

In Council.

Resolved, That there be a Chaplain sent to the Town and Garrison at Deerfield; And that the Sum of [Twenty]* pounds be allowed him out of the Publick Treasury for his Service there for Six months next coming.

Sent down for concurrence and the Sum to be incerted.* —

Is^t ADDINGTON *Sec^{ry}*. —In the House of Representatives Nov^r 1^{mo} 1704

Read. and Concurr'd

JAM^s CONVERSE *Speaker* —[*Approved November 1.*

CHAPTER 56.

ORDER AUTHORIZING ELIHU WARDALL AND SARAH, HIS WIFE, TO SELL CERTAIN REAL ESTATE IN BOSTON DEVISED TO SAID SARAH, IN TAIL, ETC., BY HER GRANDFATHER, NATHANIEL ADAMS, LATE OF SAID BOSTON, DECEASED, AND TO REINVEST THE PROCEEDS, ETC.

A PETITION of Elisha[†] Wardel and Sarah, his wife, for liberty to sell a house and land was read, setting forth that Nathaniel Adams, late of Boston, turner, dec^d, in and by his last will, bearing date the fourteenth of July, 1675, among other things did give and devise unto the said Sarah, his grandchild, a certain house and land scituate at the northerly end of Boston, and to the heirs of her body lawfully begotten, and for default of such issue, then he gives the premises to another of his grandchildren, viz., David Adams, and his heirs forever, w^{ch} said David Adams is since dec^d and has left no issue, and the said Sarah hath already one child of her body lawfully begotten and is in hopes of having many more, whereby a legal title to the said house and land is vested in the petitioners by virtue of the said will, which is become ruinous and out of repair and they by no means capable to repair the same, and are now offered a good price for the same, as will enable them to purchase something more advantageous for themselves and children, praying to be enabled to make sale of the premises accordingly, David Adams, father of the said Sarah, also signing the said petition in manifestation of his consent, —

Ordered, That the Petitioners be Impowred to make Sale of the House and Land as is within prayed, The produce thereof being vested in some other real Estate within the Town of Boston, or some other Town in the County of Suffolk to the Satisfaction of the Justices of the Superiour Court under the same Taile. [*Approved November 1.*

* The word "twenty," put in brackets, was inserted by the House in accordance with the above vote of the Council.

† The petitioner signs his name "Elibu," as in the title, and so it appears in the record of the conveyance under this chapter, and in the copy of the order recorded therewith.

CHAPTER 57.

ORDER GRANTING A NEW TRIAL OF THE ACTION OF NATHANIEL SILLSBEE,* *ET AL.*, *VERSUS* JAMES MEINZIES, IN THE INFERIOR COURT OF COMMON PLEAS FOR THE COUNTY OF ESSEX, REMANDED TO SAID COURT BY THE SUPERIOR COURT OF JUDICATURE, UPON APPEAL.

UPON READING a petition of Nathaniel Sylsby and Joseph Neale of Salem, with the order thereon, pass'd in the house of represent^{ves}. and sent up, the petition setting forth that at the inferiour court of common pleas for the county of Essex, holden in March last, they brought their action of debt against James Menzies of Salem, gent., and were nonsuit, from which judgment they appealed to the superiour court, and there the judgment was reversed, and the cause sent back to the inferiour court, where they made a new entry, and the cause was continued by the court with consent of both parties to the next inferiour court, where the plaintiffs appeared to prosecute, but the court enter'd up judgment to dismiss the cause, for that it was a continued action, praying to be releived and that their cause may be tried, —

Ordered That the Praier of this Petition be Granted, and the Cause therein set forth be at the next Inferiour Court of Common Pleas held for the County of Essex brought to an Issuable Plea and Tryall, and that the writts, and Processe relating thereto be Revived, & Continued in order to s^d Triall at the s^d Court.

That M^r Minzies have sumons left to answer and That all former Costs shall be Determined according to the Judgment of s^d Court [*Concurred in by the Council, and approved November 3.*]

CHAPTER 58.

RESOLVE FOR PAYING FIVE POUNDS AND NINE† SHILLINGS OUT OF THE PROVINCE TREASURY TO JOHN CHANDLER OF ANDOVER, TO BE BY HIM PAID TO SUNDRY PERSONS FOR SNOW-SHOES, ETC.

Resolved — That the sum of five Pounds and nine Shillings be paid out of the publick Treasury to M^r John Chandler, to be paid to the severall Persons respectively as it is due for the Snow shoes mentioned on the other side & for Collecting of them [*Approved November 3.*]

CHAPTER 59.

RESOLVE FOR PAYING TWO POUNDS FIVE SHILLINGS AND SIX-PENCE OUT OF THE PROVINCE TREASURY TO JOHN CHANDLER OF ANDOVER, TO BE BY HIM PAID TO SUNDRY PERSONS FOR SNOW-SHOES, ETC.

Resolved That the sum of Two pounds five shillings & six pence be paid out of the publick Treasury to M^r John Chandler, to be by him paid to the severall persons respectively, as it is due for the Snow-Shoes within mentioned and the Collecting of them [*Approved November 3.*]

* This name is printed as the petitioner wrote it.

† Both copies of the legislative records make this "nineteen;" but the executive warrant agrees with the original resolve as here printed.

CHAPTER 60.

RESOLVE FOR PAYING CAPTAIN JOHN HARRADEN, AND HIS LIEUTENANT, ACCORDING TO THE ESTABLISHMENT OF OFFICERS' WAGES, FOR THE TIME THEY WERE IN SERVICE UNDER COLONEL CHURCH, ETC.

Resolved—That Cap^t Harraden and his Lieut^t be Paid according to the Establishment Captains, & Lieutenants wages for the time they were in the Service under Col^l Church, notwithstanding their Company did not Consist of forty men, [*Approved November 3.*]

CHAPTER 61.

ORDER FOR ALLOWING AND PAYING TWENTY-FOUR POUNDS OUT OF THE PROVINCE TREASURY TO JONATHAN TYNG OF DUNSTABLE, TO ENABLE HIM TO PAY THE WAGES OF THE WORKMEN EMPLOYED BY HIM TO BUILD FOUR BLOCK-HOUSES ON MERRIMACK RIVER, ETC.

Ordered, That there be allowed and paid out of the publick treasury to Jonathan Tyng, Esq^r, the summ of twenty-four pounds to enable him to satisfy the workmen for building of four block-houses on Merrimack River, pursuant to an order of his excellency, for which he stands engaged. [*Approved November 3.*]

CHAPTER 62.

ORDER APPOINTING A HEARING ON THE PETITION OF JOSEPH HILL, ATTORNEY FOR ANTHONY PENN, ETC., AND DIRECTING HIM TO FILE IN THE OFFICE OF THE SECRETARY OF THE PROVINCE, HIS CHALLENGE TO THE INSTRUMENT PURPORTING TO BE THE LAST WILL AND TESTAMENT OF WILLIAM PENN, AND THAT FRENCH AND OTHERS, WHO CLAIM UNDER SAID INSTRUMENT, HAVE A COPY OF THE CHALLENGE.

· UPON OPENING of the matter contained in a petition prefer'd by Joseph Hill, attorney to Anthony Penn, refering to trials at law formerly had between him and Thomas and Samuel French and John Bowditch, about lands to which they pretend to derive a title by vertue of the last will of William Penn, upon record in the office of probate, the said Joseph Hill alledging the said will to be forged, —

Ordered, That the said Hill do forthwith put in his challenge to the said will into the secretarie's office, and that the French's,* and others who hold by the said will, have a copy thereof, and that the same be heard on Friday, the tenth instant. [*Approved November 3.*]

• *Sic.*

CHAPTER 63.

ORDER AUTHORIZING THE JUSTICES OF THE COURT OF SESSIONS IN SUFFOLK COUNTY TO LICENSE NICHOLAS BOONE TO KEEP A COFFEE-HOUSE IN BOSTON.

A PETITION of Nicholas Boon of Boston, bookseller, was read, setting forth that he has taken the house next door to the post-office in Boston, where the widow Campbel late kept a coffee-house, and had licence to sell coffee, tea, chocolate, beer, ale, cyder, mead, mum, and other such drink as are usually sold in such houses, and several gentlemen and merchants finding such an house needful near the post-office, and the petitioner praying that, forasmuch as the court is over for granting of licences for the present year, the justices of the court of general sessions of the peace may be allowed for this time to grant him a licence for the remainder of the year, —

Ordered That the Prayer herein made be Granted, viz! That the Justices of the Court of General Sessions of the Peace for Suffolk be allowed for this time to grant the Pet^r a Licence for the remainder of the present year. [*Approved November 3.*]

CHAPTER 64.

ORDER AUTHORIZING SAMUEL PARTRIDGE AND ELEAZAR FRARY, ADMINISTRATORS OF THE ESTATE OF SAMUEL GRAVES, LATE OF HATFIELD, DECEASED, TO SELL REAL ESTATE OF SAID DECEASED FOR THE PAYMENT OF DEBTS INCURRED BY THEM ON ACCOUNT OF SAMUEL, THE ELDEST SON OF SAID DECEASED, A MINOR.

UPON READING a petition of Samuel Patridge, Esq^r, setting forth that himself and Eleazer Frarey, being administrators of the estate of Samuel Graves, late of Hatfield, dec^d, who left three sons and a considerable estate in lands, the moveables being disposed of for payment of debts, Samuel, the eldest son, fell lame and became very chargeable for his keeping and chirurgeons that attended him in hopes of cure, the debt amounting to forty-four pounds fourteen shillings and fourpence, including some other small debts yet to pay, the said Samuel died under age, there having been no division made of the lands, a right to one-half whereof accrued to him upon his father's death, and praying that an order may be granted by this court for sale of so much of the said land as may pay the debt, —

Ordered That the Lands be charged with payment of the Debt withinmentioned And that the Administ^{rs} or the Survivour of them be and hereby are appointed and Impowred to Sell so much of the s^d Lands as will amount to paym^t of the said Debt, And to Execute a good Convayance in the Law for the same — [*Approved November 8.*]

CHAPTER 65.

ORDER APPOINTING A COMMITTEE TO CONSIDER THE PARAGRAPH OF THE GOVERNOR'S SPEECH REFERRING TO THE DISPOSAL OF THE PROVINCE GALLEY, ETC., AND TO REPORT THEREON.

Ordered, That John Phillips, John Foster, Andrew Belcher and Samuel Legg, Esq^{rs}, be a committee of this board to join with such as shall be named by the house of representatives, to consider of that part of his excellency's speech refering to the disposal of the province galley and providing another vessel of war instead thereof, and that they make their report with what speed may be, for that the season of the year demands it to be immediately put in execution, —

W^{ch} order being sent to the representatives was concur'd with by that house, and Major Samuel Brown, M^r Isaac Woodberry, Cpt. Samuel Checkley, Cpt. Thomas Oliver and M^r Joseph Sherman, named a committee to join in that affair. [*Passed November 8.*]

CHAPTER 66.

RESOLVE DIRECTING PELATIAH WHITTEMORE, COMMISSARY, TO GIVE CREDIT TO LEWIS BANE FOR KNAPSACKS AND MOCCASINS USED BY THE COMPANY UNDER HIS COMMAND, AND CHARGED TO HIS ACCOUNT, AND FOR ALLOWING AND PAYING TWENTY SHILLINGS TO SAID BANE FOR HIS SERVICES AS POST-RIDER AND FOR A SADDLE LOST IN THE SERVICE.

A PETITION of Lewis Bane, setting forth that upon his going forth against the enemy the last winter with a company of volunteers, he was necessitated for the furnishing of his men to take up of the commissary twelve snapsacks and twelve pair of moggasons, which he stands charged with, and also that he rode post from York to Newich awannock, where his horse and saddle were impress'd for the service and his saddle was lost, of the value of about sixteen shillings, praying to be acquitted from the said charge and to be allowed for his service and saddle, with the resolve of the house of represent^{ves} thereupon, were severally read and agreed to; viz., —

Resolved That the Praier of the within Petition be Granted, and M^r Commissary Whittemore be Directed to Give the Petitioner Credit by the Province the value of the s^d Snapsacks, and mawgissons and that the Sum of Twenty Shillings be Allowed and Paid out of the publick Treasury to Lewis Bane the Petitioner, for his Service as Post, and his Saddle lost in the service [*Approved November 8.*]

CHAPTER 67.

ORDER AUTHORIZING RICHARD TOWT* OF BOSTON TO SELL CERTAIN REAL ESTATE, WHICH HE CONVEYED IN TRUST TO HIS SON RICHARD, SINCE DECEASED.

UPON READING a petition of Richard Fowle of Boston, setting forth that he made a deed of gift of a house and land at the north end of Boston unto his son, Richard Fowle, dated the fifth of April, 1690, upon special trust and confidence that his sons, Richard, Benjamin and John, might not be defrauded by their mother-in-law, in case of her survival, of what estate he design'd them, and that still, notwithstanding, he might have full power to convey and sell the said house and land for his support or maintenance if he should be so minded, as by good proof will appear, and his said three children being all dead and himself reduced to a low, indigent condition, and is eighty-five years of age and very necessitous, and praying that he may be enabled to sell the premisses for his support,—

Ordered—That The Praier of the Petition on the other Side be Granted, and the Petitioner, be Enabled to Sell the House and Land mentioned in the s^d Petition. [*Approved November 8.*]

CHAPTER 68.

ORDER APPOINTING A COMMITTEE TO LAY OUT THE BOUNDS OF THE TOWN OF TISBURY, AND ALSO OF THE INDIAN TOWN OR TRACT OF LAND WITHIN THE LIMITS OF SAID TOWN. [*Approved November 8.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 69.

VOTE FOR APPOINTING A DAY OF GENERAL THANKSGIVING.

A MESSAGE was sent up from the representatives to desire his excy. and the council that a day of gen^l thanksgiving might be appointed, and Thursday the twenty-third of November currant was accordingly agreed to for that purpose. [*Passed November 8.*]

* This name, which is clearly written "Fowle" in the records of the Council, appears as "Tonte" in Savage's Genealogical Dictionary. The spelling given above is that which appears in the body of the petition, to which he subscribed his initials, as his "mark," and also in the record of the deed of trust referred to. See Suffolk Reg. Deeds, *lib.* 17, *fol.* 28.

CHAPTER 70.

VOTE FOR GRANTING A HEARING TO JOHN USHER ON CERTAIN ARTICLES IN THE REPORT OF THE COMMITTEE UPON HIS ACCOUNTS AS TREASURER OF THE LATE TERRITORY AND DOMINION OF NEW ENGLAND.

A VOTE pass'd in the house of representatives, upon the report of a committee relating to the accounts of John Usher, Esq^r, late treas^r, that the said M^r Usher be heard upon the articles in question on Tuesday next, the fourteenth curr^t, was read and concur'd with. [*Passed November 9.*]

CHAPTER 71.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS OUT OF THE PROVINCE TREASURY TO CAPTAIN THOMAS HOW, TO BE EQUALLY DISTRIBUTED AMONG THE MEMBERS OF THE COMPANY UNDER HIS COMMAND, IN RECOGNITION OF THEIR SERVICES AGAINST THE INDIAN ENEMY AT LANCASTER.

A PETITION of Cpt. Thomas How of Marlborough in behalf of himself and company, that issued forth to the relief of Lancaster when insulted by the enemy in the summer past, and several of the enemy slain by the said company, though they recovered no scalps, praying some compensation for their service, was sent up from the representatives with the resolve of that house thereon; viz., —

Resolved That The Sum of Ten Pounds be allowed, and Paid out of the publick Treasury to Captⁿ Thom^s How, to be equally Distributed amongst the Petitioners, as a Token that this Court Takes notice of, & well-accepts, their good Service, abovemention'd [*Concurred in by the Council, and approved November 10.*]

CHAPTER 72.

RESOLVE DIRECTING THOMAS BRATTLE TO PAY TWO POUNDS AND SIXTEEN SHILLINGS, OUT OF THE MONEY IN HIS HANDS BELONGING TO THE PROVINCE, TO SAMUEL BLUNT OF CHARLESTOWN FOR TRANSPORTING BRICKS TO THE CASTLE.

A PETITION of Samuel Blunt of Charlestown, boatman, praying payment of two pounds sixteen shillings due to him for transporting sixteen thousand bricks to the castle, for the use of the fortifications there, certified by the brick-burner and Thomas Brattle, Esq^r, sent up from the representatives with the resolve of that house thereon; viz., —

Resolved that m^r Thomas Brattle be directed to pay to y^e petition^r the Sum of Two pounds & sixteen Shillings being due to him as abovesaid; he sd m^r Brattle having moneys yet in his hands y^e appertaines to y^e Province [*Concurred in by the Council, and approved November 10.*]

CHAPTER 73.

ORDER FOR ALLOWING TO ANDREW BELCHER, COMMISSARY-GENERAL, FURTHER TIME FOR CLAIMING AN ABATEMENT OF THE IMPOST ON WINES IMPORTED BY HIM, THAT ARE PRICKED.

WHEREAS This House is Informed by the Commissary Generall, that Some time in Aug^t last, he had a vessell Arriv'd at this Port Laden with Wines, which by reason of the Pressure of publick businesse, he neglected to Examine, and so to Take the benefit of the law for abatement of Impost in case of the breaking or Pricking of Wines, untill the time limited for the same was lapsed.

Ordered That the s^d Commissary Generall have the Benefit of the s^d Law respecting wines that are prick'd for the Cargo afore mentioned, for the Space of fourteen Daies next coming. [*Concurred in by the Council, and approved November 10.*]

CHAPTER 74.

ORDER FOR ABATING TO THE TOWN OF DEERFIELD SEVENTEEN POUNDS TWO SHILLINGS AND SIXPENCE OF THE PROVINCE TAX LAST ASSESSED UPON SAID TOWN.

A REPRESENTATION on behalf of the town of Deerfield, setting forth that the said town's quota of the last tax was sixty-eight pounds ten shillings, the first half whereof has been paid into the treasury, and before the time for the second payment, the town was so far destroyed, that one-half of the inhabitants that should have paid it were kill'd and taken captive, and their estates destroyed and burnt, was sent up from the represent^{ves}. with the order of that house thereupon; viz., —

Ordered — That halfe of the Sum above written remaining due, viz^t Seventeen pounds two shillings & Six pence, be abated to the Town of Deerfield

And That Samuel Partridge Esq^r Cap^t. Preserved Clapp, and Cap^t Jon^s. Wells, be a Committee to proportion, the remaining Sum of Seventeen Pounds and two shillings & Sixpence, in the most just & equall manner they can, upon the Inhabitants of the s^d Town [*Concurred in by the Council, and approved November 15.*]

CHAPTER 75.

RESOLVE ENTREATING THE GOVERNOR TO DEMOLISH THE FORT AT SAGO AND TO REMOVE THE ARTILLERY AND STORES TO ANOTHER FORT TO BE ERECTED AT OR NEAR WINTER HARBOR, ALSO FOR DISPOSING OF THE PROVINCE GALLEY AND FOR BUILDING ANOTHER GALLEY OR SHIP IN ITS STEAD; AND FOR ALLOWING OUT OF THE PROVINCE TREASURY TWO HUNDRED POUNDS FOR BUILDING THE NEW FORT AND TWO THOUSAND POUNDS FOR BUILDING AND EQUIPPING SAID VESSEL.

Resolved That His Excellency be Intreated to Demolish Saco-fort, and Erect another at or near Winter Harbour,

That a Sum not exceeding Two Hundred Pounds be Allowed out of the Publick Treasury for that end which we Desire may never have more than twelve men in Pay for Its Defence, & under Command of a serjeant. That the Guns, & stores at saco be removed thither, and Such of the Timber, & Buildings as may be serviceable.

That the Province Galley be Disposed of to best advantage, and another suitable ship or Galley for the use of this Province, be Built, & fitted to Guard the sea Coast, to be called the Province Galley not exceeding one hundred and Sixty Tuns, to carry Sixteen or eighteen Guns, That the Guns & stores belonging to the Province Galley, be Reserved, and Improved, So far as they are Suitable for a new vessell.

That there be allowed out of the publick Treasury a sum not exceeding Two Thousand Pounds for Building & fitting the s^d vessell.
[*Approved November 17.*]

CHAPTER 76.

ORDER PERMITTING JAMES GARDNER, A MINISTER IN DARTMOUTH, TO SOLEMNIZE MARRIAGES THERE.

UPON READING the petition of M^r James Sampson, representative of the town of Dartmouth, setting forth that the said town is at present destitute of an ordained minister, so that when any would join together in marriage, they are neccessitated to be at trouble and charge of travelling twenty or thirty miles to the next justice of the peace, praying that M^r Gardner, a preacher of the gospel in the said town, may be permitted to join persons in marriage in the said town, pursuant to the directions in the law, so long as he shall continue a preacher in the said town,—

Ordered That the Praier of the above Petition be Granted.
[*Approved November 17.*]

CHAPTER 77.

ORDER FOR INCREASING TO FIVE SHILLINGS, EACH, THE ALLOWANCE TO PERSONS FURNISHING THEMSELVES WITH SNOW-SHOES AND MOCCASINS.

UPON THE PETITION of several of the frontiers, referring to the act about providing of snow-shoes,—

Ordered—That instead of three shillings already Directed, the sum of five shillings be Granted to every person, who are, or shall be furnished according to Law with Snow Shoes and Mogginsons. [*Approved November 17.*]

CHAPTER 78.

ORDER APPOINTING A COMMITTEE TO DISPOSE OF THE PROVINCE GALLEY AND TO CONTRACT FOR AND SUPERINTEND THE BUILDING AND EQUIPPING OF A NEW VESSEL, ETC.

Ordered, That John Phillips, John Foster, Andrew Belcher and Samuel Legg, Esq^{rs}, or any three of them, be a committee to dispose of the province galley, and to treat, agree for and oversee the building and fitting out the new ship of war or galley ordered by the general assembly to be erected and built for her majestic's service within this province, and to employ and lay out the money granted for that use. [*Approved November 18.*]

CHAPTER 79.

RESOLVE FOR BURNING SIXTY-FIVE COUNTERFEIT BILLS OF PUBLIC CREDIT, AND FOR ORDERING THE PROVINCE TREASURER TO PAY SIXTY-FIVE POUNDS, THE AMOUNT OF SAID BILLS, TO ELISHA HUTCHINSON, IN BEHALF OF THE PERSONS DEFRAUDED THEREBY.

Resolved That the Counterfeit bills amounting to Sixty five pounds being Sixty five in number be immediatly burn'd And that the Treasurer be Ordered to pay the like Sum to Elisha Hutchinson Esq^r on behalfe of the persons who were defrauded thereby. — [*Approved November 18.*]

CHAPTER 80.

RESOLVE FOR DIRECTING THE TREASURER TO GIVE TO JAMES BAILEY A WHOLE TWENTY-SHILLING BILL OF CREDIT IN EXCHANGE FOR A TORN BILL OF THE SAME AMOUNT.

Resolved That the Treasurer be Directed to Take the piece of a Twenty Shilling Bill of Credit, annex'd and Deliver a whole Twenty Shilling Bill to James Bayley Esq^r or his order. [*Approved November 18.*]

CHAPTER 81.

ORDER FOR SENDING COMMISSIONERS TO THE GOVERNMENTS OF CONNECTICUT AND RHODE ISLAND TO URGE THEM TO MAINTAIN A PROPORTIONABLE QUOTA OF FORCES FOR THE COMMON DEFENCE, ETC.

In the House of Representatives. Novem^r 17: 1704.

Ordered — That Two Commissioners be sent from this Court, to the Governments of Connecticut & Rhode-Island, to move & urge them, to maintain a proportionable Qvota of forces, for the Common Defence, of Her Majesties Subjects, and Interests in these Governments

That M^r Speaker Converse, bee one of the said Commissioners, to Joine with Such other as the Hon^{ble} Board Shall Appoint.

Sent up for Concurrence.

JAM^s CONVERSE *Speaker*,—

Nov^r 18th 1704 In Council. Read and concurr'd. and W^t Winthrop Nathan^l Byfield & Nathan^l Payne Esq^r Commission^r for Rhode-Island, and W^t Winthrop and Nathan^l Byfield Esq^r for Connecticut.

IS^a ADDINGTON *Sec^y*.—

[*Approved November 18.*

CHAPTER 82.

RESOLVE FOR EMITTING TWELVE THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT, AND FOR GRANTING A TAX OF TWELVE THOUSAND POUNDS. [*Approved November 18.*

[*Printed in the notes to the acts of the year 1704–5.*]

CHAPTER 83.

RESOLVE FOR ALLOWING AND PAYING FOUR POUNDS OUT OF THE PROVINCE TREASURY TO WILLIAM BRIAR, FERRYMAN AT KITTERY, FOR HIS FORMER SERVICES FOR THE PROVINCE, AND ALSO GRANTING HIM, FOR THE FUTURE, HALF FERRIAGE FEES FOR FERRYING SOLDIERS, ETC.

Resolved That The Sum of Four Pounds be Allowed and Paid out of the publick Treasury to William Briar the Petitioner in full for his Service done for the Publick to this time. and for the future halfe ferryage, during the Continuance of the present War, or untill this Court shall order otherwise, [*Approved November 18.*

CHAPTER 84.

RESOLVE FOR ALLOWING AND PAYING FIFTY POUNDS TO ISAAC ADDINGTON, SECRETARY OF THE PROVINCE, FOR HIS EXTRAORDINARY SERVICES FOR THE YEAR ENDING DECEMBER, 1704.

Resolved, That the sum of fifty pounds be allowed and paid to Isaac Addington, Esq^r, for his extraordinary service for this province for the year currant. ending in December. [*Approved November 18.*

CHAPTER 85.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL PARTRIDGE FOR HIS EXTRAORDINARY TROUBLE AND SERVICES IN THE AFFAIRS OF THE WAR.

Resolved That the Sum of Twenty Pounds be Allowed, & Paid out of the publick Treasury to the Hon^{ble} Sam^l Partridge Esq^r for his extraordinary Trouble & Service in the affaires of the War. [*Approved November 18.*]

CHAPTER 86.

RESOLVE FOR ALLOWING AND PAYING SIXTY POUNDS TO SAMUEL WILLARD, VICE-PRESIDENT OF HARVARD COLLEGE, FOR HIS SERVICES FOR THE YEAR ENDING OCTOBER 30, 1794.

Resolved — That the Sum of Sixty Pounds be Allowed, and Paid out of the Publick Treasury, to the Reverend M^r Samuel Willard Vice-President of Harvard Colledge for his Service the Year Past Expiring the Thirtieth Day of the last month. [*Approved November 18.*]

CHAPTER 87.

RESOLVE FOR ALLOWING AND PAYING SIXTEEN POUNDS AND TEN SHILLINGS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, FOR HIS SERVICES DURING THE CURRENT YEAR.

Resolved, That the sum of sixteen pounds and ten shillings be allow'd and paid to M^r. John White, clerk of the house, for his service the year currant. [*Approved November 18.*]

CHAPTER 88.

RESOLVE FOR ALLOWING AND PAYING SEVENTY POUNDS, EACH, TO THOMAS BRATTLE AND TIMOTHY CLARKE, APPOINTED TO MANAGE THE EXPENDITURE OF THE MONEY GRANTED TOWARDS FORTIFYING CASTLE ISLAND, FOR THEIR SERVICES DURING THE CURRENT YEAR.

Resolved, That there be allowed and paid unto Thomas Brattle, Esq^r, and Cpt. Timothy Clark, the committee for fortifying Castle Island, unto each of them the sum of seventy pounds, for their service the year currant. [*Approved November 18.*]

CHAPTER 89.

RESOLVE FOR ALLOWING AND PAYING EIGHT POUNDS TO NATHANIEL HUBBARD, FOR HIS SERVICES AS CHAPLAIN TO THE COMMISSIONERS APPOINTED, JUNE 23, TO RENEW THE TREATY OF AMITY WITH THE FIVE NATIONS.*

Resolved That the sum of Eight Pounds be Allowed, and Paid, out of the publick Treasury to M^{tr}† Nathaniel Hubbard, for his Service as Chaplain to the Hon^{ble} Commission^{rs} that were Sent by this Court to Confir[m]† the Amity of the five Nations. [*Approved November 18.*]

CHAPTER 90.

RESOLVE FOR ALLOWING FORTY SHILLINGS PER MONTH OUT OF THE PROVINCE TREASURY TO MATTHEW CAREY FOR SEVEN MONTHS' SERVICE AS WAITER TO THE IMPOST OFFICE.

Resolved that the sum of Forty Shillings p^r moneth be allowed and paid out of the Publick Treasury to Mathew Cary Waiter on Impost, for his Service Seuen moneths last past. [*Approved November 18.*]

CHAPTER 91.

RESOLVE FOR ALLOWING AND PAYING FOURTEEN POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL WAKEFIELD FOR HIS SERVICES AS WAITER TO THE IMPOST OFFICE, ETC.

Resolved, That the sum of fourteen pounds be allowed and paid to Samuel Wakefield for his service to this time, as waiter on the impost, over and above the four pounds he has already received. [*Approved November 18.*]

CHAPTER 92.

RESOLVE‡ FOR ALLOWING AND PAYING THREE POUNDS AND FOURTEEN SHILLINGS OUT OF THE PROVINCE TREASURY TO SAMUEL PHILLIPS FOR PAPER, AND TEN POUNDS EIGHT SHILLINGS AND NINEPENCE TO JOSEPH ALLEN FOR LABOR, INK, ETC., USED IN PRINTING BILLS OF PUBLIC CREDIT.

Resolved, That there be allowed and paid to Samuel Phillips, book-seller, for paper to print the bills of credit on, three pounds fourteen

* The title follows the resolve, although the previous titles expressly mention the Maquas, or Mohawks, only, including others under "&c." See chapters 5, 8, 23 and 35, *ante*.

† Manuscript mutilated.

‡ This resolve is taken from the records. It was made up by the secretary from two separate resolves, but as these resolves taken separately and without the bills of account to which they were respectively subjoined would be unintelligible unless explained either in the title or by a note, it has been deemed best to follow the record.

shillings; and to Joseph Allen for imprinting the bills, for labourers and several materials, ten pounds eight shillings and ninepence. [*Approved November 18.*]

CHAPTER 93.

RESOLVE FOR ALLOWING AND PAYING FOUR POUNDS OUT OF THE PROVINCE TREASURY TO CAPTAIN WILLIAM TYNG TO REIMBURSE HIM FOR THE LOSS OF HIS HORSE, KILLED BY THE INDIAN ENEMY AT LANCASTER; AND FOR ALLOWING TWENTY SHILLINGS TO JOHN SPALDING FOR THE LOSS OF HIS GUN, TAKEN FROM HIS SON BY THE INDIANS' BY WHOM HE WAS SLAIN WHILE IN THE QUEEN'S SERVICE AT LANCASTER.

Resolved, That the sum of four pounds be allowed and paid to Cpt. William Tyng for the loss of his horse, and twenty shillings to John Spalding, father of John Spalding, slain in the service, for the loss of his gun. [*Approved November 18.*]

CHAPTER 94.

RESOLVE FOR ALLOWING AND PAYING THREE POUNDS TO SAMUEL KNOWLES, ON ACCOUNT OF THOMAS SMITH OF EASTHAM, FOR THE WAGES OF HIS INDIAN MAN, JOHN MANASSES, WHO SERVED UNDER COLONEL CHURCH IN AN EXPEDITION AGAINST THE INDIAN ENEMY IN THE YEAR 1696.

Resolved, That the sum of three pounds be allowed and paid to Mr. Samuel Knowles, in behalf and on account of Thomas Smith of Eastham, in consideration of the service of his Indian man, named John Manasseh, in an expedition against the Indian enemy, under Coll. Church, in the year 1696. [*Approved November 18.*]

CHAPTER 95.

ORDER FOR PAYING EIGHT POUNDS EIGHT SHILLINGS AND TENPENCE OUT OF THE PROVINCE TREASURY TO CAPTAIN CHRISTOPHER OSGOOD AND JOHN BARKER, OF ANDOVER, FOR LABOR AND DISBURSEMENTS IN BUILDING BLOCK-HOUSES; AND ALSO FOR ALLOWING PAY FOR THE SERVICES OF TWENTY MEN AS SOLDIERS FROM APRIL 6, TO MAY 22, 1704.

AN ORDER pass'd in the house of representatives, upon the petition of Cpt. Christopher Osgood and John Barker of Andover, praying payment of eight pounds eight shillings and tenpence for labour and disbursements in building of four block-houses on the river, and for the service of soldiers from the 6th of April to the 22^d of May, 1704; viz., —

Ordered, That the said petition be granted, and payment made out of

the treasury according, as in said petition is prayed for, and that order be given for the same accordingly, provided his excellency and council, in pursuance of an order of the general court, gave order for erecting the block-houses and labour mentioned in the said petition.

W^{ch}. order being read at the board was concur'd, provided the accounts be examined and reported by Coll. Saltonstall, the payment to be directed accordingly. [*Approved November 18.*]

RESOLVES, ORDERS, VOTE AND PROCLAMATION

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-SEVENTH DAY OF DECEMBER, A.D.
1704.

CHAPTER 96.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS OUT OF THE
PROVINCE TREASURY TO THE TOWN OF LANCASTER TOWARDS
BUILDING A MEETING-HOUSE THERE, ETC.

Resolved — That the Sum of Forty Pounds be Allowed and Paid out
of the publick Treasury to the Town of Lancaster towards Building a
meeting-House, as soon as they Shall have, Erected a frame for the
Same and Paid the Taxes already levied upon them. [*Approved De-
cember 28.*]

CHAPTER 97.

RESOLVE FOR THANKING THE COMMISSIONERS LATELY SENT TO
CONNECTICUT AND RHODE ISLAND; AND FOR PAYING THEM FIVE
POUNDS, EACH, FOR THEIR SERVICES.

Resolved That the Thanks of this Court be Given to the Hon^{ble}
Nath^l Byfield, James Converse, and Samuel Lynde Esq^r; the Com^{is}-
sion^{rs} lately Sent to the Governments of Connecticott and Rhode-
Island, to move them to afford due assistance in the War; And the
Sum of Five Pounds be Paid out of the publick Treasury, to each of
them, for their good Service in that affair [*Approved December 29.*]

CHAPTER 98.

RESOLVE FOR ADDITIONAL PAY, BESIDES THE PREMIUM OF TEN
POUNDS FOR EACH SCALP TAKEN, TO COMMISSIONED VOLUNTEERS
WHO PROCEED ON THE WINTER CAMPAIGN AGAINST THE IN-
DIANS.

Resolved That over and above the Encouragement already Given to
Such volunteers as Go forth under Com^{is}sion from His Excellency,
upon the premium of Ten Pounds p Scalp, Intending their March to
Norridgawog, Noroccomecoog, Pewechewassit, or any other Head

Quarters, of the Indian Enemy, which His Excellency shall Direct, There be an addition made to the Wages, of a Captain, five shillings *p* week, of a Lieutenant four shillings *p* week of a Serjeant, & Corporall three Shillings *p* week, of a private Centinell two shilling *p* week. during the time of their March, for this present Winter. [*Approved December 30.*]

CHAPTER 99.

RESOLVE FOR ABATING THE EXCISE DUE FROM SEVERAL PERSONS, AMOUNTING IN ALL TO EIGHTEEN POUNDS.

UPON A REPRESENTATION made by the treasurer of several persons in arrear for excise in the year 1701 and 1702 in the county of Suffolk, some of them dead and others render'd uncapable to pay; viz., Thomas Davis, forty shillings; Constant Palfrey, five pounds; Giles Roberts, five pounds; Sarah Watkins, thirty shillings; Sarah Harris, six pounds (lived but one-third of the year, her son William Harris tenders to pay forty shillings); Thomas Savage, ten shillings; in all, twenty pounds, —

Resolved That the Severall Sums above mentioned be abated to the persons respectively from whom they are due excepting forty Shillings, for Sarah Harris her Licence [*Approved January 2, 1704-5.*]

CHAPTER 100.

RESOLVE FOR PAYING THE WAGES, ETC., OF THE SENTINELS ON GUARD OVER THE STORES OF WAR IN THE SCENCE AT BOSTON.

Resolved That Ten shillings *p* week be allowed and Paid out of the publick Treasury to each of the Two Centinels, that by motion of this Court, were Plac^d as a Guard to the publick stores of War Lodg'd in the Sconce in Boston, for their wages, & subsistence for the time certified by Cap^t Timothy Clarke. [*Approved January 3, 1704-5.*]

CHAPTER 101.

ORDER FOR REQUESTING THE GOVERNOR TO MOVE THE GOVERNOR OF NEW YORK TO PERMIT AND ENCOURAGE THE FIVE NATIONS TO TAKE UP ARMS AGAINST THE COMMON ENEMY *

UPON FURTHER CONSIDERATION of the Report of the Hon^{ble} Comiss^{rs} Sent to Albany to Confirm the Amity with the five Nations, & particularly that clause, wherein the S^d Nations expresse their Readinesse,

* No copy of this letter has been discovered; but that such a letter was sent appears from the record of the communication to the Council, dated February 21, 1704-5, by Governor Dudley, of the Earl of Cornbury's answer thereto. For his compliance with their request, the House, on the following day, returned thanks to the Governor. — *See Council Records, vol. VIII., pp. 105, 106.*

to Take up the hatchet against the french, in Case the Govern^r of New York Direct's them. And Considering the great advantage that may probably accrue to Her maj^{ties} Subjects in this, & the Neighbouring Provinces, by securing the s^d nations from being Debauch't into the french Interests, & Preventing the Enemy's Marching over the Lake from Canada, in case the s^d nations can be prevail'd with to enter into Hostility against the French.

Ordered That His Excellency the Governour be Intreated, in the name of this Court to move His Excellency the Lord Cornbury Governour of New-York to allow & Encourage the said nations to Take up arms against the common Enemy. [*Passed January 3, 1704-5.*]

CHAPTER 102.

ORDER ESTABLISHING THE ALLOWANCE FOR BILLETING SOLDIERS, ETC. [*Approved January 3, 1704-5.*]

[*Printed in the postscript to vol. I., of the Province Laws, page 901.*]

CHAPTER 103.

ORDER REQUIRING THE COLLECTOR OF IMPOST AT SALEM TO PUNCTUALLY COLLECT THE POWDER-DUTY AT SAID TOWN AND AT MARBLEHEAD, ETC., AND TO ACCOUNT FOR THE SAME, QUARTERLY, TO THE COMMISSARY-GENERAL.

Ordered That the Collector of the Impost at salem be required with great Exactness to receive the powder Duty at Salem and Marblehead & that the Captain of the forts be assistant to prevent any Escape and that y^e said officer do quarterly give into the Commissary Generalls office an account of his receipt That the Governour may thereout make the Necessary supplies for the forts in both these places [*Approved January 4, 1704-5.*]

CHAPTER 104.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF GROTON TOWARDS PROCURING A MINISTER, ETC.; ALSO FOR A FURTHER ALLOWANCE OF TEN POUNDS, TO BE DISTRIBUTED PROPORTIONABLY AMONG THE INHABITANTS OF SAID TOWN THAT HAVE SUFFERED MOST BY THE ENEMY.

Resolved That there be Allowed, and Paid out of the publick Treasury, the Sum of Twenty Pounds, to the Town of Grotton. to Encourage, & Assist them in Procuring another Minister, to help them under the present Disability of their Pastour M^r Hubbard, & Ten Pounds more be allowed & Paid out of the publick Treasury, to Jonathan Tyng Esq^r & M^r Nathan^l Hill, to be by them proportionably distributed to Such of the s^d Town, as in their Judgment have been greatest sufferers, in the late outrages made upon them by the Enemy [*Approved January 4, 1704-5.*]

CHAPTER 105.

RESOLVE FOR ALLOWING AND PAYING SEVENTEEN POUNDS FIVE SHILLINGS AND TENPENCE OUT OF THE PROVINCE TREASURY TO ELIZABETH, WIDOW OF JOHN WADE, LATE OF BERWICK, IN FULL OF HIS ACCOUNT FOR ATTENDANCE UPON SICK AND WOUNDED SOLDIERS IN THE QUEEN'S SERVICE.

. AN ACCOMPT of Mr John Wade, late of Berwick, dec^d, for administrations and cure of several sick and wounded soldiers in her majesty's service, sent up from the represent^{ves} with the act of that house thereon; viz., —

Resolved, That the sum of seventeen pounds five shillings and tenpence be allowed and paid out of the publick treasury to Elisabeth Wade, widow, relict of the said John Wade, or her order, in full of the accompt on the other side. [*Concurred in by the Council, and approved January 5, 1704-5.*]

CHAPTER 106.

ORDER FOR REQUESTING THE GOVERNOR TO INFORM THE GOVERNMENT OF CONNECTICUT THAT SAID COLONY IS EXPECTED TO FURNISH SUBSISTENCE TO THE TWO HUNDRED MEN WHICH THEY PROPOSE TO SEND INTO HAMPSHIRE COUNTY, ETC.; AND, IN THE MEAN TIME, THAT THE REPRESENTATIVES ARE WILLING THAT THE COMMISSARY-GENERAL SHOULD SUPPLY SAID FORCES WITH PROVISIONS UNTIL FURTHER ORDER.

Ordered That a Message be sent up to the Board in auswer to their's of this Day by the Comiss^y Generall.

That His Excellency be Desired to write to the Government of Connecticut that It is Expected the s^d Colony should subsist their two Hundred men propos'd to be sent into the County of Hampshire and that It is far Short of their proportion

And They have promis^d to furnish their men with Ammunition. However rather than their fforces should draw off this House would have the Comissary Generall take care for their Supply of Provision untill further order. [*Passed January 5, 1704-5.*]

CHAPTER 107.

RESOLVE FOR PAYING TWENTY-ONE POUNDS AND EIGHT SHILLINGS OUT OF THE PROVINCE TREASURY TO CAPTAIN THOMAS HARVEY FOR FIFTY PAIRS OF SNOW-SHOES, AND FOR THE CURE OF WILLIAM HUNTING, A SICK SOLDIER, ALSO FOR A HORSE LOST IN THE EXPEDITION TO PEQUAWKET, ETC.

AN ACCOMPT of Cpt. Thomas Harvey for fifty pair of snow-shoes supplied for the service, for cure of William Hunting, one of the soldiers, and for a horse lost in the Pigwoeket expedition, amounting

in the whole to twenty-one pounds eight shillings, sent up from the representatives with the resolve of that house thereupon : viz., —

Resolved, That the sum of twenty-one pounds eight shillings be paid out of the publick treasury unto Cpt. Thomas Harvey to discharge the above accompt, he paying the several persons concerned, respectively, their due ; that the said sum be paid to the said Harvy upon his shewing receipt from Coll. Saltonstall that he has delivered the said snow-shoes to him, or, if any are wanting, an accompt, to the satisfaction of the commissary-general, how they have been disposed of : —

Which resolve being read at the board was concur'd. [*Approved January 5, 1704-5.*]

CHAPTER 108.

ORDER FOR PROPOSING THE SENDING OF A SUITABLE VESSEL EARLY IN THE SPRING TO ASCERTAIN THE POSTURE OF, AND SURPRISE, THE ENEMY AT PORT ROYAL, ETC.

Ordered That a message be sent up to the Board, Proposing that a suitable vessell with about 30, or 40 men may be sent Eastward as soon in the spring as the season will Permit to make Discovery of the Posture of the Enemy at Port Royall, & those Parts, to Surprise & Captivate, some of them, & take any vessels they may be furnish'd wth if it may be. [*Approved January 6, 1704-5.*]

CHAPTER 109.

VOTE REFERRING TO A COMMITTEE THE PETITION OF MARY WOODBURY, PRAYING FOR LEAVE TO SELL REAL ESTATE OF HER HUSBAND, HUGH WOODBURY, LATE OF BRISTOL, DECEASED, FOR PAYMENT OF HIS DEBTS.

A PETITION of Mary Woodberry, widow and administratrix of Hugh Woodberry, late of Bristol, dec^d, praying to be enabled to sell land for payment of the just debts of her said deceased husband and for her own necessary subsistence, was read and, —

Referr'd to Nathaniel Byfield and Ebenezar Brenton Esq^{rs} to Examin into the matter set forth in the above Petition, And to Report the same to the next Session of this Court. [*Approved January 6, 1704-5.*]

CHAPTER 110.

ORDER ESTABLISHING RULES FOR PAYING THE ACCOUNTS OF DRAGOONS, ETC., IN THE COUNTY OF HAMPSHIRE, ETC.

AN ORDER pass'd in the house of representatives, directing the rules to be observed in paying the accompts of dragoons, etc., in the

county of Hampshire, laid before the committee of both houses, viz. : to allow one-third ferriage ; all soldiers that exceed two days' service to be paid ; to allow twenty shillings per gun and forty shillings per horse for all lost in the service ; nothing to be allow'd for posts to those less than five miles : Major Whiting's charge at Dwight's to be allow'd ; nothing to be allowed for the last accompt of Deerfield losses. [*Concurred in by the Council, and approved January 6, 1704-5.*]

CHAPTER 111.

A PROCLAMATION APPOINTING THURSDAY, THE FIRST DAY OF MARCH, 1704-5, AS A DAY OF PUBLIC FASTING AND PRAYER.

By His EXCELLENCY, JOSEPH DUDLEY Esqr. Captain General and Governour in Chief, in and over Her Majesties Provinces of the Massachusetts-Bay and New-Hampshire in New-England. A Proclamation for a General Fast.

Having had Consideration of the Great Troubles of Europe, wherein Her Majesty and the Confederates are Engaged against the Common Enemy of the Repose of the Christian Nations ; As well as our own Troubles with the French and Indians ; And the Just Reason we have therefore to Implore the Divine Favour, for the Remission of our great and manifold Sins that have justly displeased God.

I Have therefore thought fit, by and with the Advice of Her Majesties Council, and at the Desire of the Representatives in their last Session, to Appoint and Order, That Thursday the first of March next, be Solemnized as a Day of Publick Fasting and Prayer throughout these Provinces : Exhorting both Ministers and People in their several Assemblies, Religiously to attend the Solemn Services of the said Day ; That by a sincere Repentance and steady Affiance in the Divine Mercy in their most humble Addresses, They may obtain from God, That Our Sovereign Lady the Queen, with the Nations and Territories under Her Happy Government may alwayes be under the Protection of Heaven ; Her Majesties Life and Government long continued ; Her Counsils and just Arms Prospered ; The Designs of the barbarous Salvages against us defeated ; Our exposed Plantations preserved, And the poor Christian Captives in their hands, returned ; That the Government of these Provinces may have the Divine Direction in all their Administrations ; That Health may be continued, And the ensuing Year crowned with the Fruits of Divine Bounty : That Deliverance may speedily arise to the Church of God oppressed with the Tyranny of Antichrist : And all Servile Labour is Inhibited on that Day.

Given at the Council Chamber in Boston, the Twenty-second Day of January, 1704. In the Third Year of the Reign of Our Sovereign Lady Anne, by the Grace of God, of England, Scotland, France & Ireland, Queen, Defender of the Faith, &c :

J. DUDLEY

By Order of the Governour & Council,

ISAAC ADDINGTON, Secr.

GOD SAVE THE QUEEN.

RESOLVES, ORDERS AND VOTES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-FIRST DAY OF FEBRUARY, A.D.
1704-5.

CHAPTER 112.

RESOLVE FOR ALLOWING AND PAYING TWENTY-FIVE SHILLINGS, EACH, TO NATHANIEL BYFIELD AND SAMUEL LYNDE, COMMISSIONERS TO CONNECTICUT AND RHODE ISLAND, FOR THEIR EXPENSES BEYOND THE SUM ADVANCED TO THEM; ALSO FOR ALLOWING THIRTY SHILLINGS, EACH, TO ISAAC WALDEN, DANIEL BALDWIN AND JOSIAH CONVERSE, THE THREE TROOPERS WHO ATTENDED SAID COMMISSIONERS.*

Resolved — That the Sum of Twenty and five Shillings, be Allowed, and Paid out of the publick Treasury to Nath^l Byfield Esq^r one of the Commiss^{rs} lately Sent by this Court to the Governments, of Connecticut, and Rhode Island for his Expences at Boston, when attending to give acc^t of his Negotiation, & in his Return home.

The like Sum of Twenty five shillings to Sam^l Lynde Esq^r one of the s^d Commiss^{rs} for So much he Expended in the s^d Service more than was advanc'd to him.

And That there be Paid to Isaac Walden Daniel Baldwin, and Josiah Converse the three Troopers, that Attended the s^d Commiss^{rs} to each of them the Sum of Thirty shillings for their Service. [*Approved February 22, 1704-5.*]

CHAPTER 113.

ORDER APPOINTING A COMMITTEE TO PREPARE THE DRAUGHT OF
AN ADDRESS TO THE QUEEN.

The following order pass'd in the house of representatives ; viz., —

Ordered, That Mr. Nehemiah Jewett, Major Samuel Brown, Cpt. Samuel Checkley, Cpt. James Warren and Cpt. Samuel Phipps be a committee to join with a committee of the board to prepare and lay before this court a draught of an address proper at this time to be humbly laid before her majesty.

Read and concurr'd, and John Hathorne and William Brown, Esq^{rs}, and the secretary were named a committee of the board for the affair aforesaid. [*Passed February 22, 1704-5.*]

* See chapter 81, *ante*.

CHAPTER 114.

RESOLVE FOR ALLOWING AND PAYING TWENTY-FIVE POUNDS TEN SHILLINGS AND ONE PENNY OUT OF THE PROVINCE TREASURY TO THE TOWN OF BOSTON, IN FULL FOR THE SUPPORT OF ABRAHAM STEVENS AND PRISCILLA SMART, PERSONS DRIVEN FROM THE EASTWARD BY THE ENEMY.

Resolved, That the sum of twenty-five pounds ten shillings and one penny be allowed and paid out of the publick treasury to the town of Boston, in full of the account annexed, for charge of keeping Abraham Stevens and Priscilla Smart, persons driven from the eastward by the war. [*Approved February 23, 1704-5.*]

CHAPTER 115.

ORDER DIRECTING THE PROVINCE TREASURER TO EXCHANGE WITH JOSHUA BOYNTON, CONSTABLE OF NEWBURY, A GENUINE TWENTY-SHILLING BILL OF CREDIT, FOR A COUNTERFEIT BILL OF THE SAME AMOUNT RECEIVED FROM HIM.

Ordered, That the treasurer receive of Joshua Boynton, constable of Newbury, a counterfeit bill of credit on this province for twenty shillings, and deliver him a true bill of the same sum. [*Approved February 23, 1704-5.*]

CHAPTER 116.

VOTE APPOINTING A HEARING UPON THE PETITION AND REMONSTRANCE OF JAMES ALLEN, SURVIVING FEOFFEE IN TRUST, AND EXECUTOR, NAMED IN AN INSTRUMENT PURPORTING TO BE THE LAST WILL OF RICHARD BELLINGHAM, DECEASED, PRAYING FOR A REVERSAL OF THE ORDER OR DECREE OF THE GENERAL COURT OF THE COLONY, IN SEPTEMBER, 1676, DECLARING SAID WILL TO BE NULL AND VOID; AND FOR NOTIFYING THE ADVERSE PARTIES.

A PETITION AND REMONSTRANCE of James Allen, clerk, surviving feoffee in trust and executor of the last will and testament of the late Hon^{ble} Richard Bellingham, Esq^r, praying to be heard upon a judgement of the general court sitting in September, 1676, declaring the said will null and void, was sent up from the representatives with the vote of that house thereupon; viz., That the prayer of the petition be granted and a hearing attended upon the second Wednesday of the session of this court in May next; w^{ch}. being read, the council disagreed with the representatives in the vote, and, —

Voted, That the person claiming the said estate be forthwith served with a copy of the petition, and that they make their objections and shew cause, if any they have, on Fryday in the first week of the next session of this court, why a hearing of the case therein mentioned, as is therein prayed for, should not be granted; and was concurred by the house of representatives. [*Passed February 23, 1704-5.*]

CHAPTER 117.

ORDER DIRECTING THE TREASURER TO OBTAIN FORTY REAMS OF PAPER FROM LONDON TO BE USED IN MAKING BILLS OF CREDIT, ETC.

Ordered that the treasurer forthwith obtain from London forty ream of the best wearing paper of proper bigness to make eight bills the sheet that may have eight paper stamps in Every sheet that may appear in the Center of the bills each ten Ream to have a different stamp which will prevent any Counterfeit without the agreement of the stationers and paper officers which may not be supposed. & that the Company of stationers who have the sole making of paper in England be prayed not to use those stamps upon any other occasion, the charge whereof will be a very small matter [*Approved February 27, 1704-5.*]

CHAPTER 118.

RESOLVE FOR EMITTING EIGHT THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT; AND FOR GRANTING A TAX OF EIGHT THOUSAND POUNDS. [*Approved February 27, 1704-5.*]

[*Printed in the notes to the acts of the year 1704-5.*]

CHAPTER 119.

VOTE FOR GRANTING A HEARING ON THE PETITION OF THE SELECTMEN OF THE TOWN OF MARLBOROUGH, PRAYING THE GENERAL COURT TO DECIDE WHETHER OR NOT THE PROPRIETORS OF THE LAND WITHIN SAID TOWN GRANTED BY THE COLONY TO DOCTOR JOHN ALCOCK OF ROXBURY, ARE LIABLE TO BE ASSESSED FOR THE LEGAL CHARGES OF THE TOWN, ETC.* [*Passed February 27, 1704-5.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 120.

VOTE APPROVING THE ENGROSSMENT OF THE DRAUGHT OF AN ADDRESS† TO THE QUEEN AND ORDERING THE SECRETARY TO SIGN THE SAME.

THE ENGROSSMENT of the address to her majesty, with the memorial accompanying the same, was read and approved, and the secretary ordered to sign the same in the name of the council. [*Passed February 28, 1704-5.*]

* See order, 1700-1, chapter 37.

† No copy of this address has been found in the archives.

CHAPTER 121.

RESOLVE FOR PAYING ONE HUNDRED FORTY-FOUR POUNDS NINETEEN SHILLINGS AND TENPENCE OUT OF THE PROVINCE TREASURY TO THE SEVERAL PERSONS TO WHOM IT IS DUE, AS SET FORTH IN LIEUTENANT-COLONEL JOHN MARCH'S ACCOUNT OF LABOR AND DISBURSEMENTS ON THE FORT AT CASCO.

AN ACCOUNT presented by Lieut. Coll. John March, of work done by carpenters and soldiers at her majestie's fort at Casco, disbursements, etc., amounting to the sum of one hundred forty-four pounds nineteen shillings and tenpence, allowed by the house of representatives and resolved to be paid out of the publick treasury to the several persons respectively to whom it is due, as set forth in the said account, was read and concurred. [*Approved February 28, 1704-5.*]

CHAPTER 122.

RESOLVE FOR ALLOWING AND PAYING OUT OF THE PROVINCE TREASURY TO JOSEPH DUDLEY, GOVERNOR, ETC., NINETEEN POUNDS SIX SHILLINGS AND ELEVEN PENCE, IN FULL FOR MONEY BELONGING TO HIM IN ENGLAND AND RETAINED BY CONSTANTINE PHIPPS, AGENT OF THE PROVINCE.

AN ACCOUNT of nineteen pounds six shillings and eleven pence of his excellencie's money in England, w^{ch} Mr Phips paid himself with, for his expences and disbursements charged to the government in his accounts, and a resolve pass'd thereon by the representatives; viz.,—

Resolved That the sum of Nineteen Pounds Six Shillings, and eleven pence be allowed & paid out of the publick Treasury to his Excellency the Governour in full of the account above mentioned [*Concurred in by the Council, and approved February 28, 1704-5.*]

CHAPTER 123.

RESOLVE FOR ALLOWING AND PAYING SIX POUNDS OUT OF THE PROVINCE TREASURY TO JOHN WALKER, IN FULL FOR THE VALUE OF HIS HOUSE, TAKEN BY THE ENLARGEMENT OF THE FORT AT CASCO.

Resolved, That the sum of six pounds be allowed and paid out of the publick treasury to John Walker, late of Casco, in full for his house, taken within the line of the fort there, upon the enlargement thereof. [*Approved February 28, 1704-5.*]

CHAPTER 124.

RESOLVE FOR ALLOWING AND PAYING TWENTY-EIGHT POUNDS OUT OF THE PROVINCE TREASURY TO THE COMMITTEE APPOINTED TO PRINT, ETC., THE BILLS OF CREDIT, IN FULL FOR THEIR WORK ON THE LAST FIVE THOUSAND POUNDS EMITTED, ETC.

Resolved That the Sum of Twenty eight Pounds be allowed, and paid out of the publick Treasury to the Committee appointed by this Court to make publick Bills of Credit in full for their making of the last five Thousand Pounds, ordered by this Court they paying into the Treasurer the Six pounds one Shilling remaining in their hands. [*Approved February 28, 1704-5.*]

CHAPTER 125.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO JOSEPH DUDLEY FOR HIS SERVICES AS GOVERNOR, ETC.

Resolved, That the sum of two hundred pounds be allow'd and paid out of the publick treasury to his excellency Joseph Dudley, Esq^r, captain-general and governor-in-chief of this her majestie's province, for his support in managing the affairs of the governm^t [*Approved March 2, 1704-5.*]

CHAPTER 126.

RESOLVE FOR ALLOWING AND PAYING FOUR POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, FOR HIS EXTRAORDINARY SERVICES DURING THE YEAR 1704-5.

Resolved, That the sum of four pounds be allowed and paid out of the publick treasury to M^r John White, clerk of the house of representatives, for his extraordinary service the year past. [*Approved March 2, 1704-5.*]

CHAPTER 127.

RESOLVE FOR ALLOWING AND PAYING SIXTEEN POUNDS SIXTEEN SHILLINGS AND TENPENCE OUT OF THE PROVINCE TREASURY TO JOHN WOODMAN, JOHN KENT AND OTHERS, ACCORDING TO AN ACCOUNT PRESENTED.

Resolved, That the sum of sixteen pounds and sixteen shillings and tenpence be allowed and paid out of the publick treasury to the persons respectively to whom the same is due, in full of an acc^t presented; viz., —

To John Woodman, for ferriage, three pounds five shillings and fourpence; to John Kent, master of the sloop Planter, nine pounds; to divers persons sent posts, etc., four pounds eleven shillings and sixpence. [*Approved March 2, 1704-5.*]

CHAPTER 128.

ORDER APPOINTING A COMMITTEE TO VIEW THE BOATS BELONGING TO THE CASTLE, AND TO PROVIDE FOR THE REPAIR OF ONE OF THEM.

Ordered, That the Commissary Generall, Cap^t Sam^l Checkley, & Captain Ephraim Savage, be a Committee to view the Castle Boats, and Take Care for the Repair of one of them, the charge, to be Defrayed out of the publick Treasury. [*Approved March 3, 1704-5.*]

CHAPTER 129.

ORDER FOR ISSUING A PROCLAMATION FIXING THE STANDARD OF VALUE OF STERLING COIN AND PLATE, AND FORBIDDING THE CIRCULATION OF LIGHT MONEY BY TALE.

Ordered, That there be forthwith a proclamation issued that no money shall pass by tale but what is of due weight, according to her majestie's proclamation and the law of this province; and that all other light money and plate of sterling alloy shall pass and be good in payments at seven shillings the ounce and no more, until further provision be made by the general assembly at their next session.

Sent down for concurrence, and upon the nonconcurrence of the representatives thereto, his excellency sent a message to the house to direct the speaker and the house to attend him forthwith in council on a conference about that matter; and after the conference, the council revived their vote above, with the alteration following, viz.: instead of the words [seven shillings] the words [troy pro rato]. W^{ch} order was concur'd by the representatives, with the amendment, viz.: "until the end of the session of this court in May next, when further consideration shall be had thereof:" w^{ch} were agreed by the council. [*Approved March 3, 1704-5.*]

CHAPTER 130.

ORDER DIRECTING THOMAS BRATTLE AND TIMOTHY CLARKE TO PAY TO THE PROVINCE TREASURER THE BALANCE OF THE MONEY GRANTED TO BE USED BY THEM ON THE FORTIFICATIONS AT CASTLE ISLAND.

AN ACCOUNT of the disburse of the money granted for the fortifications of the castle, presented by Thomas Brattle, Esq^r, and Cpt. Timothy Clark, commissioners for the laying out the same, was sent up from the representatives with the order of that house thereon; viz., —

Ordered, That Thomas Brattle, Esq^r, and Cpt. Timothy Clark be directed to pay the ballance of the above account; viz., fifty-four pounds and eleven shillings and fourpence, to the treasurer, and that the treasurer give the province credit for the said sum in his accompts, upon his receipt thereof. [*Concurred in by the Council, and approved March 3, 1704-5.*]

ORDERS, RESOLVES, VOTES,
ADDRESS, ETC.,

PASSED 1705-6.



LEGISLATIVE LIST

FOR

1705-6.

HIS EXCELLENCY JOSEPH DUDLEY,
CAPTAIN-GENERAL, AND GOVERNOR-IN-CHIEF, ETC.*

THOMAS POVEY, Esq.,†
LIEUTENANT- OR DEPUTY-GOVERNOR, ETC.

ISAAC ADDINGTON, Esq.,
SECRETARY OF THE PROVINCE.

COUNCILLORS OR ASSISTANTS.

Of the inhabitants of, or proprietors of, lands within the territory formerly called the Colony of the Massachusetts Bay:—

WAIT WINTHROP, Esq.,**
SAMUEL SEWALL, Esq.,
JAMES RUSSELL, Esq.,
JOHN HATHORNE, Esq.,
ELISHA HUTCHINSON, Esq.,
WILLIAM BROWNE, Esq.,‡
ISAAC ADDINGTON, Esq.,
JOHN PHILLIPS, Esq.,
JONATHAN CORWIN, Esq.,

JOHN FOSTER, Esq.,
PENN TOWNSEND, Esq.,
JOHN HIGGINSON, Esq.,
ANDREW BELCHER, Esq.,
SAMUEL HAYMAN, Esq.,
EDWARD BROMFIELD, Esq.,
SAMUEL LEGG, Esq.,
EPHRAIM HUNT, Esq.,
SIMEON STODDARD, Esq.

Of the inhabitants of, or proprietors of, lands within the territory formerly called New Plymouth:—

JOHN WALLEY, Esq.,
JOHN THACHER, Esq.,

ISAAC WINSLOW, Esq.,
NATHANIEL PAINE, Esq.§

Of the inhabitants of, or proprietors of, land within the territory formerly called the Province of Maine:—

ELIAKIM HUTCHINSON, Esq.,

JOSEPH HAMMOND, Esq.,||

BENJAMIN BROWNE, Esq.¶

Of the inhabitants of, or proprietors of, land within the territory lying between the river of Sagadahoc and Nova Scotia:—

JOSEPH LYNDE, Esq.

* For the full title, see vol. VII., p. 331.

† Povey, having obtained leave to go home, drew his pay as commander of the Castle for three months, ending January 31, 1705-6, upon a warrant which was advised and consented to, on the 28th, at a meeting of the Council at which he was present and he soon after sailed from Piscataqua, in a ship which was then nearly ready to depart. He never returned. See note to chapter 32 of the resolves of 1704-5.

‡ "Brown," in the Secretary's list.

§ "Payne," in the Secretary's list.

|| Hammond's name does not appear subscribed, with those of the other councillors, to the qualifying oaths, but he was already sworn as a representative before his election to the Council.

¶ "Brown," in the Secretary's list.

** He was not sworn until the nineteenth of November.

For the Province, at large:—

SAMUEL PARTRIDGE, ESQ.,

SAMUEL APPLETON, ESQ.

REPRESENTATIVES OR DEPUTIES.

May 30, 1705 to April 12, 1706.

MR. THOMAS OAKES, SPEAKER.*

COUNTY OF SUFFOLK.

<i>Boston,</i>	Mr. Thomas Oakes,† Capt. Samuel Checkley, Capt. Ephraim Savage, Mr. Elizur Holyoke.‡
<i>Roxbury,</i>	Mr. William Denison.
<i>Dorchester,</i>	Mr. Hopestill Clap.§
<i>Milton,</i>	Capt. Thomas Vose.
<i>Braintree,</i>	Lieut. John Baxter.||
<i>Weymouth,</i>	Capt. Stephen French.
<i>Dedham,</i>	Mr. John Fuller.
<i>Hingham,</i>	Mr. Josiah Leavitt,¶ Mr. Samuel Eells.
<i>Medfield,</i>	Mr. John Metcalf.**
<i>Wrentham,</i>	Mr. Richard Puffer.††

COUNTY OF ESSEX.

<i>Salem,</i>	Samuel Browne, Esq.,‡‡ Capt. Samuel Gardner.
<i>Ipswich,</i>	Mr. Nehemiah Jewett, Mr. Nathaniel Knoulton.§§
<i>Newbury,</i>	Capt. Henry Somerby.||||
<i>Lynn,</i>	Ensign Joseph Newhall.¶¶
<i>Marblehead,</i>	Mr. Samuel Reed.***
<i>Beverly,</i>	Mr. Samuel Balch.
<i>Wenham,</i>	Deacon William Fiske.†††
<i>Topsfield,</i>	Mr. Elisha Perkins.
<i>Gloucester,</i>	Mr. Joseph Allin.‡‡‡
<i>Rowley,</i>	Capt. John Dresser.
<i>Salisbury,</i>	Mr. Isaac Morill.§§§
<i>Amesbury,</i>	Mr. Thomas Fowler.|||||

* The Governor having negatived the election of Mr. Speaker Oakes, the House insisted on their choice; whereupon a committee of the Council was sent down to the House to propose, as a temporary expedient, that the latter "would withdraw what they have done, with a *salvo jure*, and fill the chair with another person," to preside during the election of councillors; but the House still insisted and denied the Governor's authority to veto their choice. After hearing read the clause in the charter which gave the governor the negative voice "in all elections and votes of government whatsoever," performed by the General Court or in Council, and also the third section of the act of 1692, for ascertaining the number and regulating the House of Representatives, which act had been approved by the Privy Council, and after a prolonged debate thereon, the Council sustained the decision of the House, with but three dissenting voices. The form of this vote was, "That it is not in the governor's power to refuse the election of a speaker, and direct the choice of another, by virtue of the charter." The House then brought up their vote for eighteen councillors for the territory late the Colony of Massachusetts Bay, whereupon the Governor reelected, and directed "that the election be proceeded in," which was accomplished by half-past eleven at night. On the following day Dudley communicated a paper to the representatives whom he summoned to the council chamber, in which he declared that though satisfied of his right "to allow or disallow the speaker of the Assembly," he deemed it his duty not to insist upon it at that time, to the delay of the important business then pressing. This was the beginning of the controversy which resulted in the granting of the explanatory charter of 1726. See foot-note on page 555, *post*.

† "Okes," in the town records, and "Oaks," in the Secretary's list.

‡ "Holyok," in the town records, and "Holioko," in the Secretary's list.

§ "Clapp," in the Secretary's list.

|| "Lient," in the town records, but "Mr.," in the Secretary's list.

¶ No representative for Hingham is named in the Secretary's list; but the town records show that Josiah Leavitt was chosen April 28, and Samuel "Eells," on the sixth of June. As the latter, only, subscribed the qualifying oaths, and was chosen so late, it is probable that the former declined to serve, or was rejected.

** "Metcalf," in the town records.

†† Erroneously entered as of Middlesex County, in the Secretary's list.

‡‡ "Brown," in the Secretary's list.

§§ "Knolton," in the town records.

|||| "Somersby," in the Secretary's list; but "Somerby," in the town records, and subscribed "Som-erby," to the qualifying oaths, showing that two m's were intended.

¶¶ "Newell," in the Secretary's official list, but "Newhall," in a duplicate list in the archives. He perished in a snowstorm, January 29, 1705-6. — Boston News-Letter, No. 95.

*** "Read," in the Secretary's list.

††† "Deacon," in the town records, but "Mr.," in the Secretary's list.

‡‡‡ "Allen," in the Secretary's list.

§§§ "Morrill," in the Secretary's list and in the town records.

||||| "Fowler," in the Secretary's list and in the town records.

COUNTY OF ESSEX — *Concluded.*

Andover, Capt. Christopher Osgood.
Haverhill, Mr. Samuel Watts.

COUNTY OF MIDDLESEX.

Charlestown, Capt. Samuel Phipps.
Cambridge, Capt. Thomas Oliver.*
Watertown, Mr. Nathaniel Bright.†
Woburn, Maj. James Converse, Esq.‡
Malden, Mr. Phineas Upham.
Reading, Maj. Jeremiah Swayne.§
Billerica, Lieut. John Willson.||
Concord, Mr. Simon Davis.
Chelmsford, Capt. Jerahmeel Bowers.
Sudbury, Mr. William Browne.¶
Mr. John Brigham.
Marlborough, Mr. Samuel Brigham.
Newton, Capt. Isaac Williams.
Sherburne, Mr. William Rider, senior.**
Lancaster, Mr. John Houghton.
Groton, Capt. Jonas Prescott.††
Medford, Lieut. Thomas Willis.‡‡
Dunstable, Capt. William Tyng.

COUNTY OF HAMPSHIRE.

Springfield, Deacon John Hitchcock.§§
Northampton, Capt. Preserved Clap.||||
Suffield, Mr. Joseph Sheldin.¶¶
Hadley, Mr. Peter Montague.***
Hatfield, Mr. Samuel Marsh, senior.†††
Westfield, Mr. Nathaniel Bancroft.

COUNTY OF PLYMOUTH.

Plymouth, Capt. John Bradford.†††
Scituate, Mr. Samuel Clap.
Marshfield, Mr. Ephraim Little.§§§
Bridgewater, Mr. David Perkins, jun.|||||
Duxbury, Mr. David Alden.

COUNTY OF BRISTOL.

Bristol, Mr. Nathaniel Blagrove.
Rehoboth, Col. Samuel Walker.¶¶¶
Swansey, Mr. Ephraim Perce.****
Little Compton, Mr. William Fobes.††††
Taunton, Mr. Joseph Tisdale.
Dartmouth, Mr. Joseph Tripp.

COUNTY OF BARNSTABLE.

Barnstable, Mr. James Hamlen.††††
Farmouth, Mr. Samuel Sturges.§§§§
Eastham, Mr. Samuel Knowles.

COUNTY OF YORK.

York, Capt. Lewis Bane.
Kittery, Mr. John Leighton.
Wells, Capt. Joseph Hill.

ISLAND OF NANTUCKET.

Capt. Richard Gardner.

JOHN WHITE, *Clerk.*

JAMES MAXWELL, *Doorkeeper to the Governor and General Court.*

JOHN BRIGGS, }
HENRY EMMES, } *Messengers of the House of Representatives.|||||*

* "Capt.," in the town records, but "Mr.," in the Secretary's list.

† Erroneously entered "Mr. Joseph Sherman," in the Secretary's list.

‡ "Major," and "Convers," in the town records, without the "Esq."

§ "Swain," in the Secretary's list, and "Swayne," in the town records.

|| "Wilson," in the Secretary's list and in the town records, and "Lieut.," in the latter.

¶ "Brown," in the Secretary's list. Browne died after having qualified, and on the third of October, Brigham was chosen to fill the vacancy.

** "Senior," in the town records.

†† "James," in the Secretary's list, but "Jonas," in the duplicate list in the archives

‡‡ "Lient.," in the town records.

§§ "Deacon," and "Hitchcocke," in the town records.

|||| "Clapp," in the town records.

¶¶ Not in the Secretary's list, but duly sworn.

*** "Montague," in the Secretary's list.

††† "Senior," in the town records.

‡‡‡ "Capt.," in the town records, but "Major," in the Secretary's list.

§§§ "Isaac," in the Secretary's list.

|||| "Junior," in the town records.

¶¶¶ "Col.," in the town records.

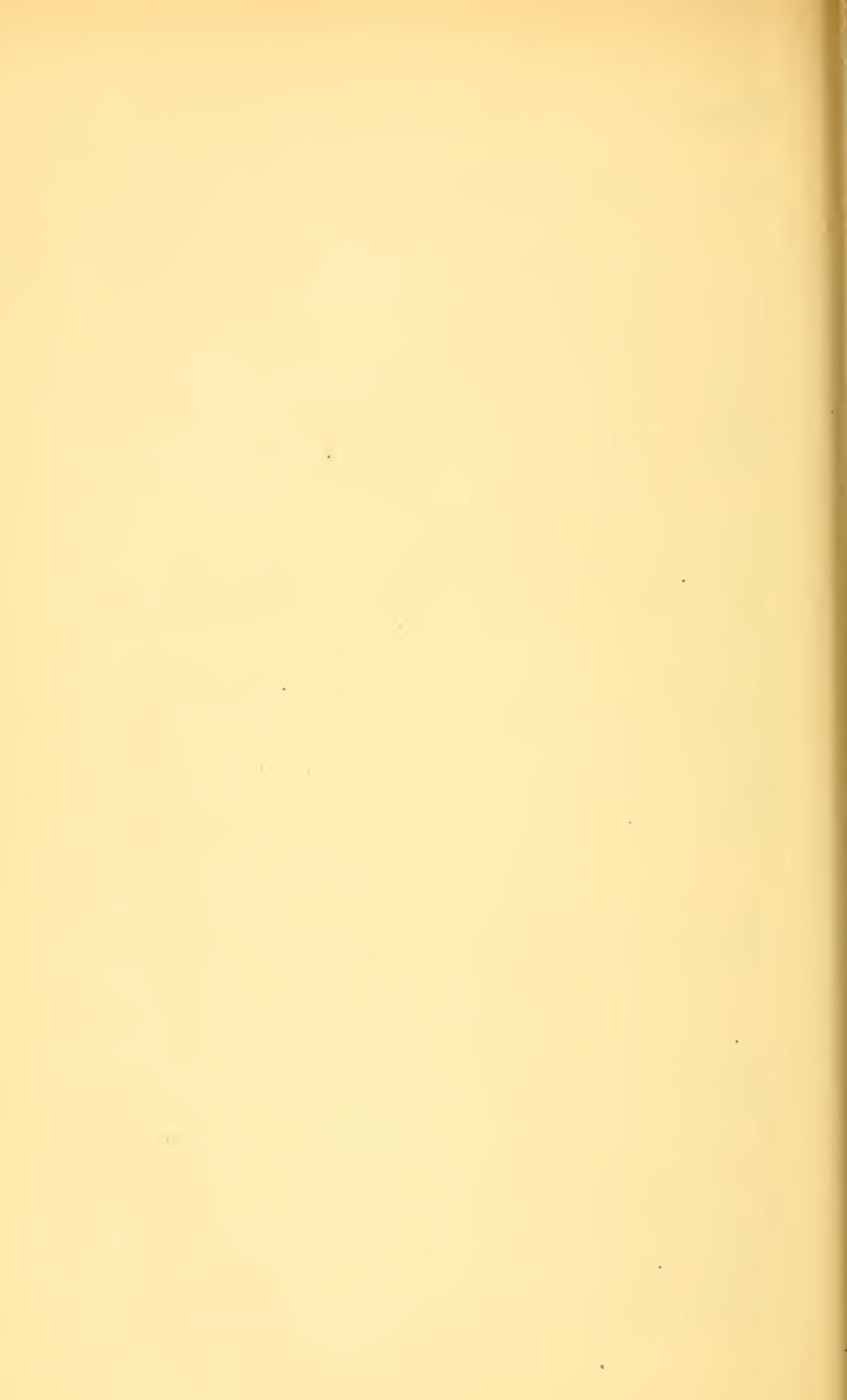
**** "Pearce," in the town records.

†††† "Forbes," in the town records.

†††† "Hamlin," in the Secretary's list.

§§§§ "Sturgis," in the town records.

||||| These messengers served specially at different times. See chapters 34 and 99, *post*.



ORDERS, RESOLVES AND VOTES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTIETH DAY OF MAY, A.D. 1705.

CHAPTER 1.

ORDER FOR PERMITTING THE NATICK INDIANS TO CONVEY TWO HUNDRED ACRES OF LAND, WITHIN THEIR PLANTATION, TO JOHN COLLAR, JUNIOR, TO PAY HIM FOR BUILDING THEIR MEETING-HOUSE, ETC. [*Approved June 6.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 2.

ORDER ALLOWING JOHN CARY, BREWER, TO PAY IN BEER HIS ARREARS OF EXCISE WHILE HE KEPT THE GREEN DRAGON TAVERN IN BOSTON.

UPON READING a petition of John Carey of Boston, brewer, setting forth that he lately kept the Green Dragon Tavern in Boston, and by misfortunes that befel him was forced to quit the house and get a letter of licence from his creditors, since which he has set up a brewhouse, and being about twelve pounds in arrear for his excise and is unable to pay the same in money, praying that he may pay the said sum in beer for the countrey's use, —

Ordered, That the above arrear of about twelve pounds be accepted and paid in beer. [*Approved June 6.*]

CHAPTER 3.

ORDER APPOINTING A HEARING AT THE NEXT SESSION OF THE GENERAL COURT, ON THE COMPLAINT OF ISAAC ADKINS, JOHN ELLIS, BERIAH BROADBROOK AND JOSEPH SEVERANCE, AGAINST DANIEL HAMILTON, CONSTABLE OF MANAMOIT, FOR ILLEGALLY DISTRAINING THEIR ESTATES FOR TAXES, ETC. [*Approved June 7.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 4.

ORDER APPOINTING A COMMITTEE TO CONSIDER THE BEST METHOD OF REFORMING THE MONEY AND RENDERING EFFECTUAL THE LAW TO PREVENT THE DEBASING THEREOF.

Ordered, That Elisha Hutchinson, Samuel Sewall, William Brown, Eliakim Hutchinson and Samuel Legg, Esq^{rs}, and the secretary, be a committee of the board, to be joined by such as shall be named by the house of representatives, to consider what may be proper to be done by this court for reforming of the money, *and rendering the law effectual to prevent the debasing thereof*,* and Cpt. Samuel Checkley, Cpt. Stephen French, Major Samuel Brown, Mr. Nathaniel Knolton, Maj^r James Converse, Cpt. Thomas Oliver, Cpt. Samuel Clap, Mr. Ephraim Pierce, Mr. Samuel Knowles and Cpt. Preserved Clap were named a committee of the representatives to join the committee of the board in that affair, with the abatement of the clause of penalties and the addition of the words underlined; w^{ch}. was agreed to. [*Passed June 7.*]

CHAPTER 5.

RESOLVE FOR ALLOWING AND PAYING FOURTEEN POUNDS OUT OF THE PROVINCE TREASURY TOWARDS THE MAINTENANCE OF A MINISTER AT THE ISLES OF SHOALS, PROVIDED THE PROVINCE OF NEW HAMPSHIRE PAY SIX POUNDS FOR THE SAID PURPOSE.

CONSIDERING the Greater Part of the Inhabitants of the Isles of Shoales, belong to the Province, of New Hampshire.

Resolved That if the s^d Province Pay the Sum of Six Pounds at least for the Support of the minister at the S^d Isles this present yeare, That then there be Allowed, and Paid, out of the publick Treasury of this Province, for the Use afores^d the sum of fourteen Pounds. [*Approved June 8.*]

CHAPTER 6.

ORDER APPOINTING A HEARING AT THE NEXT SESSION OF THE GENERAL COURT ON THE CLAIMS MADE BY MOSES WILL ON BEHALF OF THE INDIANS OF GAY HEAD, AND BY SAM ASSAWETT ON BEHALF OF THE INDIANS OF NO-MAN'S LAND, TO LANDS AT GAY HEAD AND TO OTHER LANDS ON MARTHA'S VINEYARD, AND ORDERING THE SHERIFF OF DUKES COUNTY TO NOTIFY THE AGENT OF THE EARL OF LIMERICK, AND OTHERS, OF SAID HEARING; ALSO PROVIDING FOR THE SECURITY OF THE INDIANS IN THE MEAN TIME, AND FOR THE PROBATE OF THE WILL OF JOSIAH MATAACK, AN INDIAN SACHEM, DECEASED. [*Approved June 12.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* The words in Italics were substituted, in an amendment proposed by the House, for the following words in the order as originally passed by the Council: "for the annexing of Penalties on such as shall offer money by tale, under due weight, and further." The words "for the reforming of the money," were transposed from after to before the substituted words.

CHAPTER 7.

RESOLVE FOR ALLOWING AND PAYING FIVE POUNDS OUT OF THE PROVINCE TREASURY TO ARTHUR BEAL OF YORK, FOR FERRYING SOLDIERS IN THE QUEEN'S SERVICE.

A PETITION of Arthur Beal, one of the ferrymen at York, with his accompt annexed of ferrying over soldiers, was sent up from the representatives with the resolve of that house thereon; viz.,—

Resolved—That the Sum of five Pounds be Allowed, and Paid out of the publick Treasury to Arthur Beale the Petitioner, in full for ferryage (as mentioned on the other Side) to this day.

Sent up for Concurrence.

THOMAS OAKES *Speaker*

June. 12th 1705. Read and Concurr'd, And That m^r Commissary General take in the acco^t pay the sum allow^d, and bring the paym^t to acco^t in his bookes.

Is^a ADDINGTON *Secry.*

[*Approved June 12.*]

CHAPTER 8.

ORDER FOR A HEARING ON THE PETITION OF A COMMITTEE OF THE TOWN OF GLOUCESTER PRAYING THAT THE HEIRS OR ASSIGNS OF RICHARD BLINMAN MAY BE OBLIGED TO OPEN AND KEEP CLEAR "THE CUT" AT CAPE ANN, ETC., AND FOR NOTIFYING SAID HEIRS OF THE HEARING.

UPON A REPRESENTATION and complaint made by a committee of the town of Gloucester, that the cutt (so called) at Cape Ann is closed and shutt up, to the great hurt and prejudice, not only of the said town, but of the publick, and the heirs of M^r Richard Blinman, who claim the privilege thereof, neglect and refuse to open and clear the same,—

Ordered, That there be a hearing of that matter on Fryday, the fifteenth curreant, and that the heirs of the said M^r Blinman be notified thereof, and attend by themselves or others sufficiently impowered to answer the said complaint. [*Approved June 13.**]

CHAPTER 9.

ORDER DIRECTING THAT A SURVEY OF THE TERRITORY OF PAWMET, WHICH THE INHABITANTS PRAY MAY BE MADE A TOWNSHIP BY THE NAME OF DANGERFIELD, BE MADE, AND LAID BEFORE THE GENERAL COURT AT THE NEXT SESSION. [*Passed June 15.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* On the 22nd, the representatives "Ordered That a Hearing be attended at three a clock this afternoon," when the order was passed which constitutes chapter 30, *post*.

CHAPTER 10.

ORDER DIRECTING THE INHABITANTS ON THE EAST SIDE OF THE RIVER IN SPRINGFIELD TO PAY TO THE INHABITANTS ON THE WEST SIDE OF THE RIVER FIFTY POUNDS IN GRAIN, ETC., AND TO ALLOW THEM ONE HUNDRED ACRES OF LAND FOR THE USE OF THE MINISTRY; AND PROVIDING FOR FUTURE DIVISION OF THE MINISTRY LANDS BETWEEN THE TWO PARISHES, ETC. [*Approved June 15.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 11.

RESOLVE FOR ALLOWING AND PAYING FOUR POUNDS OUT OF THE PROVINCE TREASURY TO BENJAMIN CHURCH OF HADLEY FOR HIS LOSSES, ETC., BY REASON OF A WOUND RECEIVED IN THE FIGHT AT DEERFIELD.

Resolved That the sum of four Pounds, be allowed & Paid out of the publick treasury to Benjamin Church the Petitioner in full Satisfaction, for his losse of time & being wounded [*Approved June 15.*]

CHAPTER 12.

RESOLVE FOR ALLOWING AND PAYING FORTY SHILLINGS OUT OF THE PROVINCE TREASURY TO SAMUEL CHURCH OF HADLEY FOR HIS LOSSES, ETC., BY REASON OF A WOUND RECEIVED IN THE FIGHT AT DEERFIELD.

Resolved That the sum of forty shillings, be Allowed, and Paid out of the publick Treasury to Sam^l Church the Petitioner for his losse of time, & his being wounded, [*Approved June 15.*]

CHAPTER 13.

VOTE OF ADVICE TO THE GOVERNOR TO PROCURE AN EXCHANGE OF PRISONERS WITHOUT THE RELEASE OF BAPTISTE, IF POSSIBLE.

THE FOLLOWING MESSAGE in writing was sent up from the represent^{ves}; viz., That this house are of advice that his excellency please to use utmost endeavours to obtain an exchange of prisoners without releasing of Baptist; but if, finally, it cannot be obtained without, that Baptist be exchanged, rather than our captives be retain'd in the hands of the enemy; w^{ch}. was read and, —

Agreed to. [*Passed June 15.*]

CHAPTER 14.

RESOLVE FOR A FURTHER ALLOWANCE OF FORTY SHILLINGS TO SAMUEL BARNARD OF HADLEY FOR HIS HORSE IMPRESSED AND KILLED IN THE PUBLIC SERVICE.

A PETITION of Samuel Barnard of Hadley praying a further allowance for a horse impress'd from him to go post to Boston with Thomas Bettis, the man and horse being both kill'd on the road, was sent up from the representatives with the resolve of that house thereon; viz.,—

Resolved That the Sum of forty shillings be allowed & Paid out of the publick Treāry to Sam^l Barnard the Petitioner. over & above the forty Shillings already paid him in full for his horse mentiond in his Petition [*Concurred in by the Council, and approved June 15.*]

CHAPTER 15.

VOTE APPROVING THE ARTICLES OF AGREEMENT WITH THE GOVERNOR OF CANADA FOR THE EXCHANGE OF PRISONERS OF WAR.

HIS EXCELLENCY acquainted the council that in his discourse yesterday with Courtesmanch, commissioner from Mons^r Vaudreuil, governor of Canada, relating to the exchange of prisoners,—

Mons^r Courtesmanch proposed that he would sign the articles offered by his excellency, with the exception of Baptist, so that Mons^r Cha-four, brother to Mons^r Vaudreuil's wife, might be permitted to go to Canada with him, upon his parol of honour to return hither again as a prisoner, if Mons^r Vaudreuil refused to consent to and ratify the articles with that exception; and if, otherwise, M^r Vaudreil should sign and ratify them, then the ratification thereof to be forthwith sent hither by a courier, with the notice of the agreed place for the exchange, and that the dispatch of the prisoners from Canada should proceed in the mean time.

And the council were of advice it might be so, and upon communicating the same to the represent^{ves}, Major Converse and Cpt. Phips, of the representatives, brought up a message that it is acceptable to their house that it be so. [*Passed June 16.*]

CHAPTER 16.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO JAMES TAYLOR, TREASURER OF THE PROVINCE, FOR HIS SERVICES DURING THE YEAR 1704-5.

Resolved, That the sum of two hundred pounds be allowed and paid out of the publick treasury to M^r James Taylour, as province treasurer, for the year past. [*Approved June 16.*]

CHAPTER 17.

ORDER FOR PAYING FIFTY POUNDS TO LIEUTENANT-COLONEL BENJAMIN CHURCH, OUT OF THE FINES WHICH ARE OR SHALL BECOME DUE FROM THE DELINQUENTS OF THE MILITARY COMPANY OF DARTMOUTH, OF WHICH HE IS CAPTAIN, TO REIMBURSE HIM FOR BOUNTIES PAID BY HIM TO FIVE MEN ENLISTED IN THE QUEEN'S SERVICE.

The following order, pass'd in the house of representatives upon the petition of L^t Coll. Benjamin Church, Cpt. of the military company at Dartmouth, was read and concur'd; viz., —

WHEREAS the Petitioner was Ordered by his Superiour Officer, to have ready Six of his quarter men, which S^d men were notified as the Law Direct's, to rendesvoue, at the place appointed: but five of the s^d men not appearing the Petitioner, as is set forth, to Expedite her Maj^{ties} service, was forced, to hire five Persons and to Pay out therefor, of his own, fifty Pounds, being far distant from his Town, and time not permitting to Impresse more out of the s^d Company, & the Law for Impressing one Quarter Part | hath appropriated the fines to the use of the Company, & not to Supply with men for the service, The Petitioner hath no means to recover the money expended for Her Majesties Service.

Ordered That the s^d Col^d Church be paid his fifty Pounds out of the fines, which are & shall become due, from Delinquents in the s^d Company. [*Approved June 16.*]

CHAPTER 18.

ORDER APPOINTING A HEARING AT THE NEXT SESSION OF THE GENERAL COURT UPON THE PETITION OF JOHN LANE AND OTHERS OF BILLERICA, PRAYING THAT A PROPOSED DIVISION OF THE COMMON LANDS BY THE ORIGINAL PROPRIETORS MAY BE STAYED; ALSO FOR NOTIFYING THE ADVERSE PARTIES AND FOR GRANTING THE STAY PRAYED FOR, IN THE MEAN TIME. [*Approved June 19.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 19.

VOTE FOR ALLOWING AND APPROVING THE PROVINCE TREASURER'S ACCOUNTS FROM MAY 31, 1704, TO MAY 31, 1705.

THE ACCOMPTS of M^r James Taylour, treasurer and receiver-general of this province, beginning the thirty-first of May, 1704, and continued unto the thirty-first of May, 1705, amounting unto the sum of fifty thousand four hundred and fifty pounds eighteen shillings and eightpence, having been presented and laid before the house of representatives and inspected by said house, by which it appears there was standing out on the said thirty-first of May, of the several assessments

ten thousand five hundred eighty-nine pounds eight shillings and tenpence, and in the hands of John Walley, Esq^r, late commissioner of impost, sixty pounds, and twenty-eight pounds thirteen shillings in the hands of James Russell, Esq^r, commissioner of the duties of impost, etc., to be drawn into the treasury and further to be accounted for; as also five hundred forty-four pounds thirteen shillings and sevenpence, province bills of publick credit remaining in the said treasurer's hands, for which bills he is accountable, —

Voted, That the said accompts, in the several articles of receipts and payments therein mentioned, amounting unto the sum of thirty-nine thousand two hundred and twenty-eight pounds three shillings and threepence, be and hereby are approved and allowed of, and the said treasurer is hereby discharged of the said sum of thirty-nine thousand two hundred twenty-eight pounds three shillings and threepence. [*Approved June 19.*]

CHAPTER 20.

RESOLVE FOR ALLOWING AND PAYING OUT OF THE PROVINCE TREASURY TO BERNARD TROTT ELEVEN POUNDS PER ANNUM FOR FIVE YEARS, IN PART COMPLIANCE WITH AN ORDER OF THE GENERAL COURT IN 1677, FOR HIS SERVICES AND EXPENSES IN REDEEMING AND RETURNING FROM FAYAL TWO INDIANS STOLEN AND SOLD INTO SLAVERY.

A PETITION of Bernard Trott praying the payment of fifty-six pounds, formerly order'd him by the governour and council of the Massachusetts Bay, for the redemption of two Indians and bringing them home from Fayal, and the resolve pass'd in the house of representatives thereon, was sent up; viz., —

Whereas the Councill met, the 9th of the 6th * 1677. Ordered the Treasurer to Gather a fine of one Hundred Pounds and Pay fifty Six Pounds thereof, unto the s^d Trott the Petitioner, for the Return of the Indians mentioned in this Petition; and M^r Sewall having Examined, the then Treasurers Acc^{ts}, & Inform's that he did not find any thing ever Paid to the s^d Trott.

Resolved That the S^d Petitioner be Allowed and Paid out of the publick Treasury the Sum of Eleven pounds, & for the future the Sum of Eleven Pounds p^a ann^o during the Space of four years next coming, to Commence from the end of the present Session of this Court (If the Petitioner, Shall live So long) unlesse before any of the s^d yearly Payments be made, It sh^l appear, that he hath already received Consideration. [*Concurred in by the Council, and approved June 19.*]

CHAPTER 21.

VOTE FOR ALLOWING THREE POUNDS TO SAMUEL BARTLETT OF NORTHAMPTON, A SOLDIER WOUNDED IN THE QUEEN'S SERVICE.

A VOTE of the representatives granting an allowance to Samuel Bartlett of Northampton, of three pounds for loss of time and smart money for a wound received in the service, and forty shillings for the

loss of a horse, was read and, on the question put, agreed only to the allowance of three pounds for loss of time and smart money; w^{ch} being again offer'd to the representatives was *agreed* by that house. [Approved June 19.*]

CHAPTER 22.

RESOLVE APPOINTING A HEARING UPON THE REPORT OF A COMMITTEE OF THE TOWN OF BOSTON IN ANSWER TO THE PETITION OF THE INHABITANTS OF MUDDY RIVER TO BE ERECTED INTO A SEPARATE PRECINCT OR TOWNSHIP, AND FOR NOTIFYING THE SELECTMEN OF BOSTON THEREOF.† [Passed June 20.

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 23.

ORDER FOR LAYING OUT TO FRANCIS COLLINS OF LONDON FIVE HUNDRED ACRES OF LAND IN THE NIPMUCK COUNTRY, WHICH WERE GRANTED BY THE GENERAL COURT IN 1683 TO HIS FATHER, JOHN COLLINS, LATE OF LONDON, DECEASED. [Approved June 20.

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 24.

RESOLVE FOR ALLOWING AND PAYING TO MATTHEW CAREY A SUM SUFFICIENT, WITH WHAT HE HAS ALREADY RECEIVED FROM THE COMMISSIONER OF THE IMPOST, TO PAY HIM FOR HIS SERVICES AS WAITER TO THE IMPOST OFFICE, FORTY SHILLINGS PER MONTH FROM NOVEMBER 18, 1704, TO JUNE 20, 1705; AND DIRECTING THE COMMISSIONER TO EMPLOY WAITERS ONLY WHEN THEIR SERVICES ARE NEEDED.

Resolved, That so much be allowed and paid out of the publick treasury to Matthew Carey, the petitioner, as with what he hath already received of James Russell, Esq^r, commissioner of impost, will amount to forty shillings per month for his service from the 18th day of Novem-

* The original resolve in the archives shows that it was agreed to by the representatives, on the twenty-second.

† A petition, addressed to the General Court by the inhabitants of the hamlet of Muddy River, a part of Boston, to "be allowed a separate village, to have selectmen and all other rights belonging to a township," was read in Council, June 17, 1704, and an order was passed by the board that the selectmen of Boston have a copy of the petition and that a hearing be had thereon at the next session of the Assembly. Although it does not appear that the House concurred in this order a memorandum on the same petition shows that on the first of November the Council ordered the selectmen to appear on the morning of Saturday, the fourth, on which day the hearing was continued to the next session.

The report of a committee of the town of Boston in opposition to this petition was read in Council June 15, 1705. A hearing was ordered to be had thereon the 19th, and that notice be given to the selectmen of Boston. This order was sent down to the House for concurrence, but for some reason which does not appear this hearing "slipt," and the House, on the 20th, passed the above resolve which, on the same day, was agreed to by the Council.

This resolve appears only in the archives.

ber last to this day; and that the commissioner have a liberty to improve waiters as he shall judge needful for the year ensuing, and not keep any under constant pay at such times and seasons as he shall not see cause to improve them. [*Approved June 20.*]

CHAPTER 25.

RESOLVE FOR ALLOWING AND PAYING FORTY SHILLINGS OUT OF THE PROVINCE TREASURY TO CAPTAIN LEWIS BANE FOR HIS SERVICES, EXPENSES, ETC., WHILE COMMANDING A SCOUT OF TWELVE MEN IN THE QUEEN'S SERVICE.

CAP^t LEWIS BANE having Represented to this House, That by order of his Excellency the Governour, he had Comanded a Scout of twelve men, the last month, the space of Seven daies wherein he Subsisted himself,

Resolved That the Sum of forty shillings be Allowed, and Paid out of y^e publick Treary. to the said Cap^t Bane for his Service, Expences, & Subsisting himself the Said seven daies afores^d & that the Comissary Generall, make up his Pay in his Muster Roll accordingly [*Approved June 21.*]

CHAPTER 26.

RESOLVE FOR ALLOWING AND PAYING FORTY SHILLINGS OUT OF THE PROVINCE TREASURY TO THANKFUL TAYLOR, WIDOW OF CAPTAIN JOHN TAYLOR, LATE OF NORTHAMPTON, FOR THE LOSS OF A HORSE IN THE QUEEN'S SERVICE; AND TEN POUNDS MORE FOR HER SUPPORT.

Resolved, That the sum of forty shillings be allowed and paid out of the publick treasury to Thankful Taylour, widow, relict of Cpt. John Taylour, late of Northampton, slain in her majestie's service, for the loss of his horse; and the sum of ten pounds more for her support. [*Approved June 21.*]

CHAPTER 27.

RESOLVE FOR ALLOWING AND PAYING TWENTY-TWO POUNDS AND NINE SHILLINGS OUT OF THE PROVINCE TREASURY TO LIEUTENANT-COLONEL JONATHAN TYNG FOR SNOW-SHOES PURCHASED AND HIRED BY HIM FOR THE USE OF THE PROVINCE, ETC.

THE FOLLOWING RESOLVE pass'd in the house of represent^{ees}. upon the petition of Lieut.-Coll. Tyng, and sent up; viz.,—

Resolved That the Said Petition^r be allowed and paid out of the Publick Treasury the Sum of Twenty one pounds five Shillings for Eighty five p^r of Snow Shoes he bought for y^e Province use, and Twenty four Shillings for 12 p^r of Snow Shoes w^{ch} he hired for s^d Service last win-

ter to Noridge Walke, Seventy 1 p^r Serviceable yet in y^e hands of s^d Coll Tyng who is acco[']able for y^e Same To y^e Commission^r of y^e Province

Sent up for Concurrence — THOMAS OAKES *Speaker*

In Council. June. 21st 1705. Agreed, so that the Commissary General Examin and Signe the Accompt thereof Is^t ADDINGTON *Sec^{ry}*
[*Concurred in by the House, and approved June 21.*]

CHAPTER 28.

ORDER DIRECTING THE JUDGE OF PROBATE FOR THE COUNTY OF MIDDLESEX TO REPORT THE SETTLEMENT OF THE ESTATE OF JACOB AMSDEN, LATE OF CAMBRIDGE, DECEASED, TO THE NEXT SESSION OF THE GENERAL COURT; AND THAT NOTICE THEREOF BE GIVEN TO THE HEIRS, ETC.

UPON READING the petition of Susannah Amsden, widow, relict of Jacob Amsden, late of Cambridge, in the county of Middlesex, deceased, praying to be impower'd to sell land for her necessary subsistence,—

Ordered That the Judge of Probate for the County of Midd^x Report the Settlement of the Estate of Jacob Amsden within-named, if any be, to this Court, at their next Session; And that the heires of the said Amsden be Notified of this Petition, and be then heard, if any thing they have to Say, why the Prayer therein should not be granted.—
[*Approved June 22.*]

CHAPTER 29.

RESOLVE FOR ALLOWING AND PAYING TWENTY-SIX POUNDS OUT OF THE PROVINCE TREASURY TOWARDS THE MAINTENANCE OF THE MINISTRY IN THE TOWN OF DUNSTABLE FOR THE CURRENT YEAR.

Resolved, That the sum of twenty and six pounds be allow'd and paid out of the publick treasury towards the support of the ministry in the town of Dunstable the year curr^t [*Approved June 22.*]

CHAPTER 30.

ORDER DIRECTING NATHANIEL COIT AND HIS SUCCESSORS TO CLEAR THE CHANNEL OR "CUT" AT CAPE ANN, AND TO BUILD AND MAINTAIN A SWING-BRIDGE OVER THE SAME, AND EMPLOY A PERSON TO TEND THE DRAW; ALSO FIXING THE RATE OF TOLLS TO BE PAID BY VESSELS PASSING THROUGH SAID CHANNEL, ETC.

UPON A REPRESENTATION made to this Court That the Channel or Passage for Vessells cut through the Beach at Cape-Anne within the Township of Gloucester, by the violence of a great Storme & Tide hapning

the last winter, is closed and Shut up with Sand; which Passage has been of general Advantage to the Coasting Vessells from that place and the parts adjacent on the Eastern Shore, and saves a doubling about the Cape; which oft times causes great loss of time in waiting for a fair winde, and is much more hazardous. —

And a Hearing having been had, upon due notification to the Select men of Gloucester and Captain Nathaniel Coit of the same place, who claims the benefit and priviledge of the said Passage in right of the heires of Willia^m Stevens, whose Widow he married.

Ordered, That the said Captain Coit do cause the said Channel or passage to be sufficiently Opened and Cleansed by the last day of August next coming, and a sufficient Swing bridge to be made over the same, safe and convenient for Travailers both Horse and Foot And from time to time maintain the said Channel and Bridge in good repair, clear and of use for the passage of Vessells and Travailers and keep a person attending constantly there to open and Shut the said Bridge, That neither Vessells or Travailers be stopt or hindred. —

And for Supporting the charge thereof, there is hereby Granted a Toll of two Shillings to be paid by the Master of every Vessell not belonging to Gloucester, passing through the Channel, and for all Vessells belonging to the said Town, the Sum of Seven Shillings p^a annu^m to be paid at or before the Twentyeth day of July annually, agreeable to a late Vote and Order of the Inhabitants in a general Town Meeting. —

And when the heires of the said Willia^m Stevens shall come of age, They to have the benefit and Income of the said passage upon payment of so much as shall appear to be due to the said Coit to make good his disburse, over and above his receipt, upon a just & true Accompt thereof to be rendred on Oath, if required; And for the future, They to be at the charge of cleansing keeping and maintaining the s^d Passage and Bridge in good Serviceable repair. — [*Approved June 22.*]

CHAPTER 31.

RESOLVE REQUESTING THE GOVERNOR AND COUNCIL TO ORDER THAT PERSONS WHO ARE FORCED TO SERVE IN GARRISON AWAY FROM THEIR HOMES BE ALLOWED PASTURAGE, AND LAND TO CULTIVATE, IN THE ESTATES OF THOSE WHO ARE PROTECTED BY THE GARRISON.

Resolved that his Ex^{ty} the Gouverno^r and Councill be desired to take Care and order that where p^{rs}ons are forced from their own Liveings into Garrisons, Those who haue their Lands and Estates by them preserved Do Suffer Such as are their Defence as aforesaid to take up and Improve Some part of their Lands for to produce Some Small help and Releife to them and their families as Some times they haue done [*Approved June 26.*]

CHAPTER 32.

RESOLVE FOR ALLOWING AND PAYING SEVEN POUNDS OUT OF THE PROVINCE TREASURY TO JOHN BRIDGMAN, JUNIOR, OF NORTHAMPTON, A SOLDIER WOUNDED IN THE QUEEN'S SERVICE AT DEERFIELD.

A RESOLVE pass'd in the house of representatives upon the petition of John Bridgeman, jun^r, of Northampton, being wounded and taken at Deerfield, was read and concurr'd; viz.,—

Resolved That the Sum of seven Pounds be allowed & Paid out of the publick Treasury, to John Bridgman the Petitioner, for his Maime, & losse of time untill the cure was effected, in full for that petitioned for. [*Concurred in by the Council, and approved June 27.*]

CHAPTER 33.

ORDER FOR ABATING FIFTY POUNDS OF THE ARREARS OF TAXES DUE BY THE TOWNS OF YORK AND WELLS, UPON CONDITION THAT THE REMAINDER OF SAID ARREARS BE DULY ASSESSED TO BE PAID IN TO THE PROVINCE TREASURY, AFTER DEDUCTING THEREFROM AN ALLOWANCE TO EACH PERSON IN SAID TOWNS WHO IS FURNISHED WITH SNOW-SHOES AND MOCCASINS; ALSO FOR AUTHORIZING THE GOVERNOR, ETC., TO DRAW WARRANTS ON THE PROVINCE TREASURER FOR WHAT REMAINS OF SAID TAX AFTER SAID DEDUCTION, TO BE PAID TO THE MINISTERS OF SAID TOWNS, RESPECTIVELY, SAID TOWNS TO BE DISCHARGED UPON MAKING UP THE DEFICIENCY.

UPON CONSIDERATION of the Loss of Estates and Persons by the War in the Frontier Towns of Yorke and Wells, on which Account principally the said Towns are fal'n in arrear of the late Publick Taxes, That is to Say, Yorke One hundred pounds & Wells Eighty pounds.

Ordered That there be abated to Yorke, Thirty pounds of their s^d arrearages, and to Wells Twenty pounds of theirs; And the Select men or Assessors of the said Towns respectively are hereby Directed and Impowred forthwith to assess and apportion the full remainder of the said arrearages upon Polls, and Estates, in Improvement, within the said several Towns, according to the Rules set for the rayseing of the said Taxes; And make return of the Lists thereof to the Province Treasurer; who is thereupon hereby Directed and Impowred to make out his Warrants to the Constables of the s^d Towns to Collect the same accordingly, to be paid into the Treasury by two equal payments. Viz^t the first at or before the first of November next, and the other halfe at or before the first of Novemb^r 1706. with Order to discount out of the first part on the Polls, five Shillings to Each person that are furnished wth good Snow Shoes and mogginsons, Pursuant to the Act of this Government; which amounts to five pounds — — in the Town of Yorke, and Three pounds fifteen Shillings in Wells; So that there will remain further of the Town of York^e Quota Sixty five pounds — — and of the Quota for Wells fifty Six pounds five Shillings.

And the Governour, by and with the Advice and Consent of the Council, is hereby Impowred, to Issue forth Warrants to the Treasurer to pay to the ministers for the time being, of the said two Towns respectively, for their Support and Service there, towards their Salary

from the Towns, the aforesaid Sums of Sixty five pounds. and fifty Six pounds five Shillings; The s^d Towns to make good the remainder to their Ministers. — On performance whereof the said Towns of Yorke and Wells are discharged of their said arrearages, and not otherwise. — [*Approved June 27.*]

CHAPTER 34.

RESOLVE FOR ALLOWING AND PAYING FORTY SHILLINGS TO JOHN BRIGGS FOR HIS SERVICES AS MESSENGER TO THE HOUSE OF REPRESENTATIVES.

Resolved, That the sum of forty shillings be allowed and paid out of the publick treasury to John Briggs, messenger to that house, for travel and fees. [*Approved June 27.*]

CHAPTER 35.

ORDER FOR A MESSAGE TO THE GOVERNOR REQUESTING HIM TO DEMAND OF THE GOVERNMENT OF CONNECTICUT TO DESIST FROM INTERFERING WITH PERSONS DWELLING ON THE DISPUTED TERRITORY* BETWEEN THAT COLONY AND THIS PROVINCE, UNTIL AFTER THE WAR, ETC. [*Passed June 27.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 36.

ORDER FOR ALLOWING AND PAYING THREE HUNDRED SIXTY-EIGHT POUNDS SIXTEEN SHILLINGS AND EIGHTPENCE OUT OF THE PROVINCE TREASURY, IN FULL REPAYMENT OF THE MONEY BORROWED OF THE GOVERNOR OF CANADA BY MESSRS. LIVINGSTON AND SHELLEN, MESSENGERS OF THE PROVINCE TO QUEBEC; AND THE FURTHER SUM OF FOUR HUNDRED TWENTY-SIX LIVRES MORE, FOR WHICH SAID LIVINGSTON HAD DRAWN BILLS.

WHEREAS Cap^l Livingstone and m^r. Shelden messengers to Quebeck, have taken up ffour Thousand Livers of m^r. Vaudreuil Governo^r for the French King in Canada, upon the Credit of this Governm^t

Ordered That the Committee appointed by the Board Adjust the Same, for the Sum to be paid here, according to the Amount in the money of this Province, and that an order be made upon the Treasury for payment to m^r. Courtemanch forthwith.

Sent down for concurrence. Is^d ADDINGTON Sec^y.

In the House of Representatives June 28: 1705. Read &

Ordered a Concurrence So far as that the sum of Three hundred Sixty eight Pounds Sixteen Shillings & eight pence may be paid out

* On the petition of the inhabitants of Suffield.

of the publick Treasury, in full for acc^t as above and for four Hundred, twenty Six Livres more, for which The Said Levingstone has also drawn Bills.

THOMAS OAKES *Speak*

[*Concurred in by the Council, and approved June 28.*]

CHAPTER 37.

VOTE FOR ACCEPTING THE ACCOUNT, AMOUNTING TO TWENTY-SEVEN HUNDRED EIGHTY-EIGHT POUNDS FOURTEEN SHILLINGS AND FIVEPENCE, OF THE COMMITTEE APPOINTED TO CONTRACT FOR THE NEW PROVINCE GALLEY.

THE COMMITTEE appointed to contract and agree for the building and equipping of the new province galley presented an accompt of the charge thereof, amounting to twenty-seven hundred and eighty-eight pounds fourteen shillings and fivepence, w^{ch} was read, accepted and sent down to the representatives. [*Concurred in by the House, and approved June 29.*]

CHAPTER 38.

ORDER DIRECTING THE PROVINCE TREASURER TO RECEIVE AND GIVE CREDIT TO JOHN RICHARDSON, CONSTABLE OF WOBURN, FOR A COUNTERFEIT TWENTY-SHILLING BILL OF CREDIT.

A COUNTERFEIT bill of Credit of twenty shillings was offered to the House by John Richardson Constable of Oburn, received as he saith for Rates, but he knows not of whom. praying he may not lose the same.

Ordered That the Treasurer receive the said Bill, and give credit to the s^d John Richardson twenty one shillings [*Approved June 29.*]

CHAPTER 39.

RESOLVE FOR THANKING THE COMMITTEE HAVING CHARGE OF THE BUILDING, ETC., OF THE NEW PROVINCE GALLEY; AND FOR ALLOWING AND PAYING OUT OF THE PROVINCE TREASURY THREE HUNDRED SEVENTY-EIGHT POUNDS FOURTEEN SHILLINGS AND FIVEPENCE TO BALANCE THEIR ACCOUNT OF EXPENSES, ETC.

THE FOLLOWING RESOLVE pass'd in the house of representatives upon the accompt of John Phillips, John Foster, Andrew Belcher and Samuel Legg, Esq^r., committee of the charge of the new province galley, was read and concur'd; viz.,—

Resolved That the Thanks of this Court be Given, to the above-named Committee for their good Service, and that the sum of Three Hundred, Seventy eight Pounds fourteen Shillings, & five pence, be Allowed & Paid out of the publick Treasury, to the s^d Committee, the Ballance remaining due of the above account [*Approved June 29.*]

CHAPTER 40.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS EIGHT SHILLINGS AND FOURPENCE OUT OF THE PROVINCE TREASURY TO CAPTAIN ZECHARIAH TUTHILL FOR HIS SERVICES IN KEEPING THE ACCOUNTS OF THE MONEY DISBURSED IN FORTIFYING CASTLE ISLAND.

Resolved, That the sum of twenty pounds eight shillings and fourpence be allowed and paid out of the publick treasury to Cpt. Zechariah Tuthill, the petitioner, in full for his service for keeping an accompt of the money disbursed for fortifying Castle Island, being proportionable to what was paid the other gentlemen for the like service; viz., seventy pounds per annum. [*Approved June 29.*]

CHAPTER 41.

RESOLVE FOR ALLOWING AND PAYING TWO POUNDS FOUR SHILLINGS AND SIXPENCE OUT OF THE PROVINCE TREASURY TO MARY GARDNER, WIDOW OF ANDREW GARDNER, KILLED AT LANCASTER, FOR ENTERTAINING SOLDIERS IN THE QUEEN'S SERVICE AND FOR THE DAMAGE DONE TO HER PROPERTY BY THEIR HORSES.

Resolved, That the sum of two pounds four shillings and sixpence, as a full consideration for expences on the soldiers in the publick service, be allow'd and paid out of the publick treasury to Mary Gardner. [*Approved June 29.*]

CHAPTER 42.

RESOLVE FOR ABATING THIRTY-EIGHT POUNDS OF THE ARREARS OF TAXES DUE FROM THE INHABITANTS OF THE TOWN OF KITTERY, SAID SUM TO BE APPORTIONED BY THE SELECTMEN, ETC.

June 29th 1705

Resolved — That the Sum of Thirty eight Pounds be Abated to the Poor of the Town, of Kittery, according to the Disposition of the Select men, & Representative of S^d Town, they being most capable, to relieve Such as they know have met with most Sufferings by the Heathen, Sent up for Concurrence.

30th The S^d Resolve sent down from the Board, Concurr'd, Provided that the names of the persons, & Sums respectively abated to them, be by the Select men and Representative laid before this Court at their next Session. which was Agreed by the House. [*Approved June 30.*]

CHAPTER 43.

RESOLVE FOR ALLOWING AND PAYING SEVENTY POUNDS TO JAMES RUSSELL FOR HIS SERVICES AS COMMISSIONER OF THE IMPOST DURING THE YEAR 1704-5; AND AN ADDITIONAL ALLOWANCE OF TWENTY POUNDS FOR HIS EXTRAORDINARY SERVICES DURING THE YEAR 1702-3.

Resolved, That the sum of seventy pounds be allowed and paid out of the publick treasury to James Russell, Esq^r, commissioner of impost, for his service the year past; and the sum of twenty pounds more to the said James Russell for the extraordinary trouble he had in managing the said office in the year 1702-3. [*Approved June 30.*]

CHAPTER 44.

RESOLVE FOR EMITTING TEN THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT, AND FOR PRINTING FIVE THOUSAND POUNDS OF SAID BILLS; AND FOR GRANTING A TAX OF TEN THOUSAND POUNDS. [*Approved June 30.*]

[*Printed in the notes to the acts of the year 1705-6.*]

CHAPTER 45.

RESOLVE FOR ALLOWING AND PAYING THREE HUNDRED POUNDS TO JOSEPH DUDLEY FOR HIS SERVICES AS GOVERNOR, ETC.

Resolved, That the sum of three hundred pounds be allowed and paid out of the publick treasury to his excellency Joseph Dudley, Esq^r, captain-general and governour-in-chief of this her majestie's province, for his support in managing the affairs of the governm^t. [*Approved June 30.*]

CHAPTER 46.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS, EACH, TO SAMUEL SEWALL, JOHN HATHORNE, JOHN WALLEY AND JOHN LEVERETT, JUSTICES OF THE SUPERIOR COURT, ETC., FOR THEIR SERVICES FOR THE YEAR ENDING JULY 10, 1705.

Resolved—That there be Allowed and Paid out of the publick Treasury to the Hon^{ble} Samuel Sewall, John Hathorne, John Walley, and John Leverett Esq^r, Judges of the Super^r Court to each of them the Sum of forty Pounds for their service the year currant expiring the tenth day of July next — [*Approved June 30.*]

CHAPTER 47.

RESOLVE FOR ALLOWING AND PAYING FOURTEEN POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, IN PART FOR HIS SERVICES DURING THE CURRENT YEAR.

Resolved, That the sum of fourteen pounds be allowed and paid out of the publick treasury to John White, clerk of this house, in part for his service the year curr^t [*Approved June 30.*]

CHAPTER 48.

RESOLVE FOR ALLOWING AND PAYING THIRTY POUNDS TO JAMES MAXWELL FOR HIS SERVICES AS DOORKEEPER TO THE GOVERNOR AND GENERAL COURT FOR ONE YEAR, ENDING JUNE 8, 1705.

Resolved, That the sum of thirty pounds be allowed and paid out of the publick treasury to M^r James Maxwell, doorkeeper to his excellency and this court, for his service the year past, ending the eighth day of the present month. [*Approved June 30.*]

CHAPTER 49.

RESOLVE FOR ABATING TO MARY SPARK, WIDOW, THE EXCISE, AMOUNTING TO TWENTY SHILLINGS, DUE BY HER LATE HUSBAND, JOHN SPARK, OF IPSWICH, DECEASED.

THE FOLLOWING RESOLVE pass'd in the house of representatives upon the petition of Mary Sparke, of Ipswich, widow, for abatement of excise, amounting to twenty shillings, was read and concur'd; viz.,—

Resolved That the Praier of the above Petition be Granted, & the s^d Excise abated accordingly. [*Approved June 30.*]

CHAPTER 50.

ORDER FOR APPOINTING A COMMITTEE TO PURCHASE FORTY BARRELS OF GUNPOWDER FOR THE USE OF THE PROVINCE.

June ult. 1705./

Ordered That Elisha Hutchinson Esq^r and m^r Commissary General be a Committee to joine with such as shall be named by the Representatives, to purchase forty barrels of Gun powder for the Service of the Province, The Publick Stock being very low. And that Order be given for the payment out of the Treasury. —

Sent down for Concurrence.

Is^t. ADDINGTON Sec^y.

In the House of Representatives June ult^o 1705.

Ordered a Concurrence, & That Cap^t Samuel Cheekley, M^r Elizur Holyoke, & Cap^t Samuel Phipps be a Com^{it}tee to Joine in the affair aboves^d

THOMAS OAKES Speak^r

[*Approved June 30.*]

CHAPTER 51.

VOTE FOR ADHERING TO THE VOTES OF JUNE 15 AND 16, AS TO THE ARTICLES OF AGREEMENT FOR THE EXCHANGE OF PRISONERS, ETC.

A MESSAGE was sent from the representatives that they were of the same advice as before,* referring to Mons^r Baptist, and the council expressed themselves to be of the same advice accordingly. [*Passed June 30.*]

* See chapters 13 and 15, *ante*.

ORDERS, RESOLVE AND ADDRESS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE FIFTH DAY OF SEPTEMBER, A. D. 1705.

CHAPTER 52.

ORDER APPOINTING A COMMITTEE TO PREPARE THE DRAUGHT OF AN
ADDRESS TO THE QUEEN, CONVEYING THE THANKS OF THIS COURT
FOR HER BOUNTY IN SUPPLYING THE CASTLE WITH AMMUNITION,
ETC.

12^o Sept^r 1705./ In Council.

Ordered That John Hathorne, John Walley and John Higginson
Esq^{rs} of the Council, be a Committee to joyne with such as shall be
appointed by the Representatives to prepare an humble Adresse to
Her Majesty, with the humble Thankes of this Court for Her Ma^{ty}s Royal
Bounty in the Cannon and Stores ordered for Her Castle within this
Province —

As also humbly to Adresse Her Majesty upon the Articles recom-
mended to the Consideration of this Court in his Excell^{ty}s Speech,
according to the Directions in Her Majty^s Royal Letter of the 25th of
January past.

And that the s^d Committees sit forthwith and make their Report to
this Court. —

Sent down for Concurrence./

Is^d ADDINGTON S:

In the House of Representatives Sept^r 12: 1705. Read and

Ordered a Concurrence And That M^r Speaker M^r Jewet, Capt^r Sav-
age, & M^r Blagrove be a Committee of this House, to Joine with the
Committee, of the Board in the affair afores^d.

THOMAS OAKES *Speaker*

[*Passed September 12.*]

CHAPTER 53.

ORDER FOR CONTINUING TO THE NEXT SESSION OF THE GENERAL
COURT ALL UNFINISHED BUSINESS REFERRED TO THE PRESENT
SESSION, ETC.

Ordered That all matters depending to be heard before this Court,
Réferred unto this Session, be further continued unto the next Session,
on the respective days before assigned. And that Application be
made to a Consideration of Her Ma^{ty}s Commands contained in Her
Gracious Letter but now read.—[*Approved September 15.*]

CHAPTER 54.

ORDER FOR APPOINTING THURSDAY, THE EIGHTEENTH DAY OF OCTOBER, 1705, AS A DAY OF PUBLIC THANKSGIVING.

Ordered — That a Message be Sent up to the Board, That a Day of Publick Thanks-Giving, be Celebrated throughout, the Severall Towns and Precincts of this Province, upon Thursday the 18th day of October next, upon the very great, & Multiplied Occasions thereof, which are left to His Excellency the Governour, & the Board to Enumerate. [*Approved September 15.*]

CHAPTER 55.

RESOLVE FOR ALLOWING AND PAYING ELEVEN POUNDS TWO SHILLINGS AND THREEPENCE OUT OF THE PROVINCE TREASURY TO CAPTAIN WILLIAM TYNG TO DEFRAY THE EXPENSES INCURRED IN THE SICKNESS AND BURIAL OF SOLDIERS UNDER HIS COMMAND, WHO DIED ON THE LATE EXPEDITION TO NORRIDGEWOCK.

A PETITION of Cpt. William Tyng, praying an allowance on behalf of the friends and relations of some of his soldiers that were wounded, sicken'd and died in her majestie's service on his march to Norridgewock in the winter past, for the charges on their sickness and funerals, sent up from the representatives with the resolve of that house thereon; viz., —

Resolved — That the Sum of Three Pounds, ten Shillings, & threepence. charge on John Carter, The Sum of Two Pounds, Six Shillings, charge on John Brabrook, the Sum of five Pounds & Six Shillings the charge on Eleazar Parker, in the whole the Sum of Eleven Pounds two shillings & three pence be Allowed and Paid out of the Publick Treasury to Capt^l. Will^m. Tyng the Petitioner, to be by him paid to the Persons respectively to whom It is due. [*Concurred in by the Council, and approved September 15.*]

CHAPTER 56.

DRAUGHT OF AN ADDRESS TO THE QUEEN, THANKING HER FOR HER ORDERS FOR SUPPLYING THE PROVINCE WITH CANNON, AND REPRESENTING THE INABILITY OF THE PROVINCE TO COMPLY WITH HER COMMANDS TO BUILD FORTS AT PEMAQUID AND PISCATAQUA, AND GIVING REASONS FOR NOT SETTLING FIXED SALARIES, AS REQUIRED IN HER LETTER; TOGETHER WITH THE VOTE APPROVING OF SAID DRAUGHT AND ORDERING IT TO BE ENGROSSED AND SIGNED, ETC.

THE ADDRESS, with the amendments and alterations made being therein inserted, was pass'd in the house of representatives and sent up again for concurrence, and the council agreed thereto and, —

Voted, That it be fairly engross'd, and that the engrossment, with a

duplicate thereof, be signed by the seeretary in their name and by their order. [*Passed September 15.*]

To the Queens most Excellent Majesty.

THE HUMBLE ADDRESSE of the Council & Representatives of your maj^{ty} Province of the Massachusetts Bay in New-England in General Court assembled. —

May it Please your Majesty.

His Excellency, your Majesties Captain General and Governour of this your Majesties Province, having communicated to us your Maj^{ty} Royal Letter of the 25th of January, 1704/5. In which your Majesty is Graciously pleased to Signify That your Majesty of your Royal Bounty has thought fit to give Directions that Twenty Cannon with their appurtenances be sent to us for the use of your Ma^{ty} Fortifications on Castle Island

Wee your Ma^{ty} Loyal and Dutiful Subjects do with all humility Adresse your Sacred Majesty with our hearty & sincere Thankes for your Maj^{ty} Royal Bounty therein, And for the good assistance your Majesty has been pleased to afford us in sending the Deptford Frigate in our time of need, when our Coast has been Infested with French Privateers.

And We Crave leave, in all humble and Dutiful manner to offer to your Sacred Majesty the following Reasons, why we cannot Answer your Majesties Expectation of building a Fort at Pemaquid, The Contributing toward the Charge of the Fort at Piscataqua River, and The Setling of fix'd Salarys for the Governo^r & Lt Governour.

As to the building of a Fort at Pemaquid. The Expence already made on our Fortresses Garisons Marches and Guards by Sea amounting to more than Eighty Thousand pounds, a very great part whereof is in arrear and unpaid; Besides the daily growing charge for our necessary defence and prosecution of the War is become almost insupportable and has brought us under very distressing circumstances and were the building and Support of a Fort at Pemaquid superadded thereto, It would render the charge far beyond our ability, and we humbly conceive would be no Security to our frontiers or bridle to the Indians, the Situation thereof being so much out of their ordinary Road and upward of one hundred miles distant from any part of this Province at present Inhabited by the English, and of little or no advantage to this Province Altho the Expence in building & Supporting of the late Fort at Pemaquid cost not less than Twenty Thousand pounds, which was not lost by any neglect in the Government, It being fully Supplied for the Support & Defence thereof; but by the Cowardice or Treachery of the then Commanding Officer upon the place, who received his Tryal but was acquitted.

The small Fortification which was built at Casco Bay onely for a cover for a trading house in a time of peace, is since the War made a considerable Fort and is likely to be as great a charge to Support the same as that of Pemaquid and for our present Security and future Settlement of Plantations in this Province will be of greater advantage

As to the Contributing towards the charge of Piscataqua Fort

The Fort in that Province was built many years past when it was neither desired or thought necessary that this Province should assist therein; and the navigation and Trades of this Province coming down Piscataqua River have been & are charg^d wth a considerable Duty toward their Support And this Province has afforded such Guards as were needful for their halling of masts Timber &c^r for your Ma^{ty} Service whilst the principal benefit and Advantage of that Trade has

accrued to that Province; And they have never contributed anything to the charge of our Forces Forts Garisons or Guards by Sea that are as great a Safety and defence to them as to our Selves; And the publick charge of that Governm^t has been much less in proportion than the charge of this

As to the Settling of fix'd Salarys.

Whereas it is the native right and priviledge of English Subjects by consent of Parliament from time to time to rayse and dispose Such Sum and Sums of money as the present Exegency of affairs call for, The which priviledge We your Maj^{ty}s Loyal and Dutiful Subjects humbly crave leave to plead our right unto, not onely as Subjects of the Crown of England; but also as priviledged by the Royal Charter Granted to this Province by their late Ma^{ty}s King William and Queen Mary of blessed memory; which we have hitherto happily Enjoyed under your Sacred Maj^{ty}. And we humbly hope and pray wil be continued to us and our Posterity. And as hitherto We have not been wanting in our Loyalty toward your Majesty and Support to our Govern^{or}? So we hope for the future alwaies to be found in the Discharge of Incumbent Dutys.

May what we have herein humbly offered be favourably Interpreted and accepted by the Parental Indulgence of your most Gracious Majesty. And may the same propitious Providence which hath hitherto preserved your Ma^{ty}s Sacred Person, still defend and prolong yo^r happy Reigu, and prosper yo^r Auspicious armes in the Just War wherein yo^r majesty is Engaged

Is and shall be the constant and fervent prayers of

Madam, yo^r Maj^{ty}s

Loyal and Dutiful Subjects. and Suppliants

CHAPTER 57.

ORDER REQUESTING THE GOVERNOR TO DIRECT THAT WORK ON THE FORT AT WINTER HARBOR BE SUSPENDED UNTIL FURTHER ACTION SHALL BE HAD ON THE SUBJECT BY THE GENERAL COURT.

THE HOUSE having seen and consider'd Cpt. Redknap's, the engineer's, draught of a fort to be built at Winter Harbour in the room of Saco fort, and find the charge thereof will probably amount to nine times the sum granted for that end,—

Ordered, That his excellency be desired to direct the s^d engineer to desist proceeding in the s^d affair until this court shall act further thereupon. [*Concurred in by the Council, and passed September 15.*]

ORDERS, RESOLVES, VOTES, ETC.

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-FOURTH DAY OF OCTOBER, A. D. 1705.

CHAPTER 58.

ORDER FOR SUMMONING CAPTAIN NATHANIEL COIT TO APPEAR
AND GIVE REASONS FOR NOT COMPLYING WITH THE ORDER OF
THE GENERAL COURT, OF JUNE 24, 1705,* TO CLEAR THE CHANNEL
OR "CUT" AT CAPE ANN, ETC.

THIS House being Informed, That Captain Nathaniel Coit of Gloucester hath not Complied, with the Order of this Court: Pass'd in June last, for the Cleansing of the Channel, or Passage, for vessells, cut through the Beach at Cape Anne in the s^d Town.

Ordered — That the S^d Coit be forthwith Sent for, and Required to appear before this Court, on Tuesday next, to Shew reason if any he hath why he has not obeyed the s^d Order. [*Concurred in by the Council, and passed October 26.*]

CHAPTER 59.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS AND SIX SHILLINGS TO NATHANIEL ROLFE OF NEWBURY, A SOLDIER, WOUNDED WHILE IN THE QUEEN'S SERVICE UNDER THE COMMAND OF CAPTAIN BENJAMIN STEVENS, IN THE EXPEDITION TO NORRIDGEWOCK.

UPON READING the petition of Nathaniel Rolfe of Newbury, praying a compensation for his smart, loss of time and charge of the cure of a wound received on his right arm while he was in her majesty's service, being a voluntier under Cpt. Benjamin Stevens in the last winter's march to Norridgewock, —

Resolved That the Sum of Twenty Pounds and Six Shillings, be Allowed, and Paid out of the Publick Treasury to Nathan^l Rolfe, the Petitioner, in full for his Cure, Losse of Time, & Smart. [*Approved October 26.*]

* See chapter 30, *ante*.

CHAPTER 60.

ORDER FOR APPOINTING A COMMITTEE TO RUN THE BOUNDARY LINE BETWEEN THIS PROVINCE AND THE PROVINCE OF NEW HAMPSHIRE, ACCORDING TO THE CHARTER, ETC. [*Approved October 26.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 61.

ORDER AUTHORIZING THEODOSIA CLARKE OF BOSTON, A MINOR, TO CONVEY HER REAL ESTATE AS IF SHE WERE OF LAWFUL AGE.*

UPON READING the petition of Theodocia Clark, spinster, one of the daughters and co-heirs of Thomas Clark, mariner, son of Thomas Clark, late of Boston, shopkeeper, dec^d, setting forth that she and her sister Hannah, now wife of John Mandesley of Dorchester, stand jointly seized, to them and their heirs, by descent from their said father, Thomas Clark, dec^d, of a certain messuage or tenement scituate in Boston, and that she, designing to return to England, the place of her nativity, in the present fleet, and being desirous to dispose of her interest in the said messuage or tenement, but, forasmuch as she wants about three months of the age of twenty-one years, prays to be enabled, by an act or order of this court, to bargain for and make sale of her right and interest in the said messuage or tenement, and to execute a deed for the same, to be as sufficient and effectual in the law, to all intents, as if she were of full and lawful age, —

Ordered That the Prayer of this Petition be granted. Viz! That the Petition^r be Enabled to Sell dispose and make Conveyance of any Estate belonging to her, as if of full age, and Such Conveyances to be good & effectual in the Law, her want of about three months of twenty one years notwithstanding. [*Approved October 31.*]

CHAPTER 62.

VOTE FOR ABATING ONE-HALF THE DUTY OF IMPOST UPON THE WINES AND BRANDY CAPTURED BY THE PRIVATE MAN-OF-WAR, THE BRIGANTINE CHARLES, AND IMPORTED BY COLONEL NICHOLAS PAIGE AND BENJAMIN GALLOP, OWNERS OF SAID BRIGANTINE.

UPON READING this day at the board the petition of Coll. Nicholas Page, Benjamin Gallop, etc., owners of the brigantine Charles, John Halsey, commander (a private man-of-war), praying an abatement of the impost for the wines and brandy taken in a prize-ship carried into Rhode Island, —

Voted an Abatement of the one halfe of the Duty of what the Pet^r Imported into this Province of their own proper dividend, unsold. And upon any doubt by the Comission^r of the Quantity or Quality thereof, the Owners to make Oath before His Excell^{ty}. [*Concurred in by the House, and approved November 2.*]

* See order, 1704 5, chapter 52.

CHAPTER 63.

VOTE FOR ABATING PART OF THE EXCISE DUE BY DEBORAH CRICKE,
WIDOW, OF BOSTON, INNKEEPER.

UPON READING this day at the board the petition of Deborah Creek of Boston, widow, setting forth that she, having renewed her licence to keep a house of publick entertainment for the year ensuing, and enter'd into recognisance to pay ten pounds excise for the year, but hath since sold the house, praying that, upon payment of so much excise as is due for the time she kept her house, she may withdraw her recognisance, and the *vote* of the represent^{ves.} thereon; viz., —

That the prayer of the petition be granted, and that order be given accordingly; the council agreed therewith. [*Approved November 2.*]

CHAPTER 64.

ORDER DIRECTING THE INHABITANTS OF THE LAND ORDERED BY THE LATE GENERAL COURT OF PLYMOUTH COLONY TO BE OF THE CONSTABLEWICK OF MANAMOI, TO PAY THEIR TAXES TO THE TOWN OF HARWICH UNTIL AN ORTHODOX MINISTER BE SETTLED AT MANAMOI; AND ORDERING THE TAXES PAID BY SAID INHABITANTS SINCE NOVEMBER, 1704, TO BE RETURNED TO THEM, ETC.
[*Approved November 3.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 65.

ORDER FOR PAYING JOSEPH BAILEY, JOHN WOOD, ROBERT HASELTINE, SAMUEL GAGE AND PHILIP ATWOOD FIVE SHILLINGS PER WEEK, EACH, AND THE CORPORAL ONE SHILLING ADDITIONAL, FOR TWELVE WEEKS' SERVICE, IN 1704, AS WARDERS ON MERRIMAC RIVER, AT BRADFORD; TOGETHER WITH THREE SHILLINGS, EACH, PER WEEK, FOR SUBSISTENCE DURING SAID TIME; ALSO TO CAPTAIN DAVID HASELTINE FIFTEEN SHILLINGS AND SIXPENCE FOR MATERIALS AND TEAMS USED IN BUILDING A BLOCK-HOUSE AT GAGE'S NECK ON SAID RIVER.

A PETITION of Joseph Bailey, John Wood, Robert Haseltine, Samuel Gage and Philip Atwood, praying payment for their service as warders upon the river at Bradford in the year 1704, sent up from the representatives with the order of that house thereon; viz., —

Ordered, That the petitioners be paid, each, for twelve weeks, five shillings per week, and the corporal one shilling more each week, for wages; and three shillings per week for each, for their subsistence during the s^d twelve weeks; and fifteen shillings and sixpence to Cpt. David Haseltine for materials and team work, as in his accompt.
[*Concurred in by the Council, and approved November 3.*]

• So written in her petition. Savage gives the name "Crick, or Creek."

CHAPTER 66.

VOTE AUTHORIZING THE SELECTMEN OF GLOUCESTER TO FINISH THE WORK OF CLEARING THE CHANNEL OR "CUT" AT CAPE ANN AT THE EXPENSE OF CAPTAIN NATHANIEL COIT, IF IT IS NOT COMPLETED BY HIM WITHIN TWELVE DAYS FROM DATE.*

CAPT Coyt of Gloucester not haueing attended this Courts order in finishing y^e Cut at Squam: being sent for appear'd before this house this day & pleads y^t he is upon y^e work & hopes to finish y^e same before winter sets in:

Voted y^t If it be not accomlisht according to y^e Courts order within Twelue dayes next: y^t y^e selectmen of y^e sd Towne shall be Impowrd to Impress & warne Men to attend y^e S^t Labor & finish y^e same as soone as y^e time allowed is expired: & y^t y^e s^d Capt Coyt pay the select men for such work as they Impress men & Teams to effect at 2^s p diē Each Man & 4^s p diē for each team y^t shall be soe Improued by y^e Select Men for such Labo^r as they shal doe [*Concurred in by the Council, and approved November 6.*]

CHAPTER 67.

VOTE FOR THANKING COLONEL RÖMER FOR HIS SERVICES AS ENGINEER, ETC., AT THE CASTLE AND ELSEWHERE, AND FOR INFORMING HIM THAT THE ASSEMBLY DEEM HIS REFLECTIONS ON MESSRS. BRATTLE AND CLARKE GROUNDLESS; ALSO FOR PRESENTING A PIECE OF PLATE AND THIRTY POUNDS IN MONEY TO COLONEL RÖMER AND HIS SON, IN LIEU OF THE GRATUITIES FORMERLY GRANTED TO THEM;† AND APPOINTING A COMMITTEE OF BOTH HOUSES TO INSPECT THE CASTLE, FORTHWITH, AND REPORT, ETC.

Octob^r ult. 1705./ In Council/.

* * *

Voted, That Col^o Romer receive the Thankes of this Court for his good Services to this Province at the Castle of Boston & elsewhere.

That he be Acquainted That this Court are also well Satisfyed with the good Service of m^r Brattle and Captain Clarke their Commissioners and Stewards of the Workes and that they Judge his reflection upon those Gentlemen groundless

That there be an Honourable Gratuity made out of the Treasury to Col^o Romer and his Son who has also with great diligence followed the Service at the Castle.

That the Governour be desired to Direct Captain Redknapp to take notice of the Defects and danger of the Works intimated in Col^o Romers Remonstrance that further care may be taken therein.—

Sent down for concurrence.

Is^a ADDINGTON Sec^y—

In y^e house of Representatives Nov^r 6. 1705 —

Read, & Voted — That y^e vote of y^e Council be Concurred with except the last Paragraph that apiece of Plate to y^e value of Twenty pounds wth a Motto as this Court Shall direct be p^resented to Coll Romer; And y^t thirty pounds be paid out of the publick Treasury to

* See chapter 58, *ante*.

† See resolve of 1701-2, chapter 76.

his Son m^r John Romer, And that a Co^mitte of both houses be appointed forth with to go down to y^e Castle to Consider what may be at present necessary to be done and to lay it before this Court, And that the former ord^r of Court for a gratnity to Col^o Romer, & his Son be voide —

Sent up for Concurrence=

THOMAS OAKES *Speaker*

In Council. Nov^r 6^o 1705. Read & agreed to And Col^o Hutchinson, Col^o Townsend & Andrew Belcher Esq^s named a Committee of the Board.

In the House of Representatives Nov^r 7th 1705. Col^o Checkley, Captⁿ Gardner, Capt: Oliver, & M^r Willis named a Committee of the s^d House. [*Approved November 7.*]

CHAPTER 68.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF DEERFIELD TOWARDS THE MAINTENANCE OF THE MINISTRY THERE.

Resolved, That the sum of twenty pounds be allowed and paid out of the publick treasury towards support of the ministry in the town of Deerfield for the year ensuing, beginning from this time. [*Approved November 7.*]

CHAPTER 69.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF BROOKFIELD TOWARDS THE MAINTENANCE OF THE MINISTRY THERE.

Resolved That the Sum of Twenty Pounds be Allowed, and Paid out of the publick Treasury, towards Support of the Ministry, in the Town of Brookfield, for the year ensuing beginning from this time, [*Approved November 9.*]

CHAPTER 70.

RESOLVE DECLARING THAT THE JUDGMENT OF THE INFERIOR COURT OF COMMON PLEAS OF ESSEX COUNTY, IN AN ACTION BROUGHT BY ERASMUS JAMES OF MARBLEHEAD AGAINST ROBERT BARTLETT AND OTHERS, OUGHT TO BE REVERSED AND THE DEFENDANTS ALLOWED AN APPEAL, ETC.*

UPON CONSIDERATION of the Petition of Robert Bartlet. And having heard both partys, why remedy should not be provided for him?

Resolved That the persons appearing at Newbury Court to answer Erasmus James's Action, thô. a minor part of Twenty Six ought to have been received as Defendants and accordingly heard.

That the persons appearing ought upon their challenge of an Appeale to have been admitted thereto.

* See the private act of November 16, 1705, vol. VI., number 18.

That the Judgem^t given in the case by default is vitious and that by an Act of this General Assembly the said Judgement & Execution thereon ought to be dissolved. And that Bartlet be restored to his Land; and James to his right at law to proceed against any or all the persons named in his writt now shewin in Court. [*Passed November 9.*]

CHAPTER 71.

RESOLVE FOR ALLOWING AND PAYING THIRTY POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL KNOWLES, TO BE BY HIM PAID TO SARAH CONANT, WIDOW OF JOSHUA CONANT, LATE GUNNER AT THE FORT IN SALEM, TOWARDS THE MAINTENANCE OF HERSELF AND HER CHILDREN, ETC.

UPON READING this day at the board a petition of Sarah Conant, widow of Joshua Conant, dec^d, praying payment of wages due to her said husband as gunner of her majestie's fort at Salem, with the resolve of the representatives thereon; viz., —

Resolved — That the Sum of Thirty Pounds, be Allowed, and Paid out of the Publick Treasury, to M^r Samuel Knowles, to be by him paid to Sarah Conant, the Petitioner, towards the Maintenance of her self, & children, and that for the future, no further Petition be received in this Court, on the affair Set forth in this Petition. [*Concurred in by the Council, and approved November 10.*]

CHAPTER 72.

VOTE PROMISING A CHARTER FOR ERECTING THE TRACT OF LAND ON CAPE COD, COMMONLY CALLED PAWMET, INTO A TOWNSHIP BY THE NAME OF DANGERFIELD, UPON CERTAIN CONDITIONS.* [*Approved November 13.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* The "patent under the public seal" promised by this vote was never issued, probably because of the failure of one or more of the conditions. On the 16th of July, 1709, however, an act was passed erecting Pawmet into a township by the name of "Truroe." See the act in vol. I., of the Province Laws. See chapter 9, *ante*.

CHAPTER 73.

ORDER FOR GRANTING THE POWERS AND PRIVILEGES OF A TOWNSHIP BY THE NAME OF BROOKLINE TO THE INHABITANTS OF MUDDY RIVER, A HAMLET OF BOSTON.* [*Approved November 13.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 74.

ORDER DIRECTING THE PROVINCE TREASURER TO GIVE TO JOHN BAKER, JUNIOR, LATE CONSTABLE OF BOSTON, A GENUINE TWENTY-SHILLING BILL OF PUBLIC CREDIT, IN EXCHANGE FOR A COUNTERFEIT BILL OF THE SAME AMOUNT.

Ordered, That the treasurer be directed to accept the counterfeit bill of credit of twenty shillings on this province, hereunto annex'd, of John Baker, junr, late constable of Boston, and deliver to him a true bill of the same sum for it. [*Approved November 13.*]

CHAPTER 75.

VOTE APPROVING THE PROPOSAL OF THE GOVERNOR TO SEND LETTERS RESPECTING THE EXCHANGE OF PRISONERS TO THE GOVERNOR OF CANADA, BY AN INDIAN FROM ALBANY, ETC.

HIS EXCELLENCY intimated to the council his expectations long since to have had a return of the vessel dispatch'd to Canada in the beginning of July last, with an answer from Mons^r Vaudreil for the articles for exchange of prisoners offer'd to him by the hand of M^r Courtemanch, his commissioner sent hither on that affair, but having received no letter from him, nor the vessel being come, he proposed the sending of letters there by an Indian from Albany, and communicated what he had written on that occasion, which was approved of by the council, as also his letter to M^r Schuyler, which was sent down to the representatives, and the approbation of that house likewise signified. [*Passed November 13.*]

* See chapter 22, *ante*, and note. A new petition, reciting the proceeding on the petition of 1704, and praying that the Assembly "proceed to pass an act for the establishing the said place a separate village or peculiar with such powers as" were prayed for in the former petition, was read in the house November 2, and 3, 1705, and on the 9th it was ordered that the prayer thereof be granted, and that the powers and privileges of a township be granted to the inhabitants, etc. This was read in Council a first time, November 10, and November 12 it passed the Board in concurrence. Under this latter date, Sewall makes the following entry in his Diary: "Brooklin is pass'd to be a Township by the Council."—*Vol. 2, p. 142.*

CHAPTER 76.

ORDER APPOINTING A HEARING AT THE NEXT SESSION OF THE GENERAL COURT UPON THE PETITION OF RICHARD CARR OF SALISBURY COMPLAINING OF THE GRANT TO COLONEL JOHN MARCH OF A NEW FERRY OVER THE LOWER PART OF MERRIMAC RIVER, AND DIRECTING THAT NOTICE THEREOF BE GIVEN, ETC.*

UPON READING this day at the board the petition of Richard Carr of Salisbury, within the county of Essex, marriner, setting forth his challenge to the ferry or ferrys over Merrimack River, and complaining of a grant made to Coll. John March of a new ferry over the lower part of the said river, and the order pass'd in the said house of representatives upon the said petition; viz.,—

Ordered, That a hearing be granted upon this petition before this court on the first Tuesday of the next session, and the parties concerned to be notified accordingly.

Voted a concurrence with the represent^{ves}. to the above order. [*Approved November 14.*]

CHAPTER 77.

ORDER FOR GRANTING A HEARING AT THE NEXT SESSION OF THE GENERAL COURT UPON THE PETITION OF THE SELECTMEN OF THE TOWN OF MARLBOROUGH PRAYING THE GENERAL COURT TO DECIDE WHETHER OR NOT THE PROPRIETORS OF THE LAND WITHIN SAID TOWN, GRANTED BY THE COLONY TO DOCTOR JOHN ALCOCK OF ROXBURY, ARE LIABLE TO BE ASSESSED FOR THE LEGAL CHARGES OF THE TOWN, ETC.† [*Passed November 16.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 78.

DRAUGHT OF A LETTER TO THE GOVERNMENT OF CONNECTICUT IN REGARD TO THE COMPLAINTS OF THE TOWNS OF ENFIELD AND SUFFIELD, AND THE VOTE ORDERING THE SAME TO BE TRANSCRIBED, SIGNED BY THE SECRETARY, AND FORWARDED.

Gent^{ls}. — I am Commanded by his Excell^{ty} and the General Assembly now Sitting to Acquaint you That they are followed with the repeated Complaints of the Inhabitants of our western Towns of Enfield and Suffield lying next adjacent to your Colony, That the people of Windsor &c.^a continue their molestations and with force and violence despoyle them of the Fruits and profits of their Lands; Which is very Surprising, after so many Overtures & Concessions made on the part of this Government to accommodate and quiet the same, and to Issue the groundless pretence of extending the Line of your Colony to take in part of those Towns under your Government.

* See vote, 1693-4, chapter 12.

† See vote, 1701-5, chapter 119.

It will be remembred That the Line of the Massachusetts Colony stated for above Sixty yeares past, did justly Include & comprehend those Lands and accordingly the Governm^t have exercised Jurisdiction there, before there was any Establish'd Government in Connecticut, and many years before the Grant of your Charter; which is bounded upon the Line of the Massachusetts. Yet, notwithstanding the Just Claim of this Government to Jurisdiction, They have at all times Declared That they had no Intent to Infringe any persons right or property; Nor do they Expect by Length of time to proscribe you of any Challenge before a proper Judicature; But his Excellency may no more consent to part with any part of this Province, the Government whereof is committed to him by Her Ma^{ty}s Letters Patents, than to extend his Government beyond it, without Her Ma^{ty}s Especial Command; And if this Contest cannot be otherwise compromised, It must finally be refer'd to Her Majesty for Her Royal Determination, and to no other Authority.

And it may not be unworthy your Consideration, *rebus sic stantibus*, Whither it will be the Advantage and Interest of your Governm^t to Enforce his Excellency, by the disquiet given to Her Maj^{ty}s good Subjects, to open & lay the matter before Her Majesty, and humbly to pray Her Ma^{ty}s Direction & Order therein which he hath hitherto forborne to do, and is still unwilling if your Selves see meet to prevent it, by Effectually restraining yo^r People from their forceable and violent Actions. —

And if any dispute about Title of Land or other matters of *meum* and *tuum* arise betwixt particular persons, Her Ma^{ty}s Courts within this Province are open to any of Her Ma^{ty}s Subjects in either Government; where Justice shall be done them/.

For the Govern^t & Council of Connecticut.—

Nov^r 16th 1705. In Council.—Read and pass'd to be fairly transcribed, Signed by the Secret^y & sent forward.—

Sent down for concurrence./

ISA^{AC} ADDINGTON Sec^y.

In the House of Representatives Nov^r 16: 1705. Read, & Concurr'd

THOMAS OAKES *Speaker*

[*Passed November 16.*

CHAPTER 79.

VOTE DIRECTING THAT THE FIVE THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT ORDERED TO BE PRINTED JUNE 30, 1705,* BE FORTHWITH UNDERTAKEN BY THE COMMITTEE APPOINTED FOR THAT PURPOSE.

A MESSAGE from the representatives by M^r. Jewett and M^r. Blagrove, that the five thousand pounds in bills of credit on this province, ordered by this court, at their session in May past, to be imprinted, be forthwith proceeded on; and the council accordingly directed that the committee proceed thereon. [*Passed November 16.*

* See chapter 44, *ante*.

CHAPTER 80.

ORDER DIRECTING THAT CAPTAIN JOHN LANE AND OTHER INHABITANTS AND FREEHOLDERS OF THE TOWN OF BILLERICA* BE ENTITLED TO A PROPORTIONABLE SHARE IN ALL FUTURE DIVISIONS OF UNDIVIDED AND WASTE LANDS BELONGING TO SAID TOWN, ETC. [*Approved November 16.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 81.

ORDER FOR PAYING TO THOMAS CUSHING OF BOSTON, THE WAGES OF HIS APPRENTICE, SAMUEL KIRBY, IMPRESSED FOR THE QUEEN'S SERVICE AT THE CASTLE, IN DECEMBER, 1704, AND WHO HAS SINCE DESERTED, ETC.

UPON READING this day at the board a petition of Thomas Cushing of Boston, setting forth that his apprentice, Samuel Kerby, being impress'd for her majestie's service at the castle in December, 1704, and having served there until the sixth of July following and then run, and that he was in advance for him, in clothing and other necessaries, nine pounds odd shillings, w^{ch} is forty shillings more than the amount of his wages, and lost more than two years' service, praying that he may receive his wages, and the order of the represent^{ves} thereon; viz.,—

Ordered That the Prayer of the above Petition be Granted and wages be paid accordingly, Subducting what has been receiv'd of the Comissaries, if any hath been. [*Concurred in by the Council, and approved November 20.*]

CHAPTER 82.

RESOLVE FOR ALLOWING AND PAYING NINETEEN POUNDS OUT OF THE PROVINCE TREASURY TO JOSEPH SHELDIN AND JONATHAN REMINGTON, CONSTABLES OF THE TOWN OF SUFFIELD, IN FULL OF THEIR ACCOUNT OF EXPENSES AND DAMAGE DURING THEIR IMPRISONMENT AT HARTFORD FOR RESISTING THE ENCROACHMENTS OF CONNECTICUT UPON SAID TOWN.

UPON READING this day at the board a petition of Joseph Shelden and Jonathan Remington, constables of Suffield, with an accompt annex'd of their charges and damages by being imprisoned at Hartford for asserting the right of this government to the said township against the encroachments of the government of Connecticut, sent up from the represent^{ves} with the resolve of that house thereon; viz.,—

Resolved, That the sum of ten pounds and ten shillings be allowed and paid out of the publick treasury to Joseph Shelden, one of the petitioners, and the sum of eight pounds ten shillings to Jonathan Remington, the other petitioner, in full of this accompt. [*Concurred in by the Council, and approved November 20.*]

* See chapter 18, *ante*.

CHAPTER 83.

VOTE APPROVING THE DRAUGHT OF A LETTER* TO THE GOVERNOR OF NEW YORK, FOR HIS ADVICE UPON THE PROPOSITIONS OFFERED BY THE GOVERNOR OF CANADA, ETC.

HIS EXCELLENCY communicated to the council and representatives the draught of a letter to his ex^{ty}. the Lord Cornbury of New York, for his advice upon the propositions offered by Mons^r Vaudreuil, governour of Canada; w^{ch}. was approved. [*Passed November 26.*]

CHAPTER 84.

RESOLVE FOR PAYING EIGHTEEN POUNDS SIX SHILLINGS AND NINEPENCE OUT OF THE PROVINCE TREASURY TO CAPTAIN SAMUEL VETCH, TO REIMBURSE HIM THE AMOUNT OF THE SUPPLIES HE FURNISHED TO REVEREND JOHN WILLIAMS, NOW A PRISONER AT QUEBEC.

THE FOLLOWING RESOLVE pass'd in the house of representatives upon the petition of John Williams, minister, now prisoner at Quebeck; viz., —

Resolved, That the sum of eighteen pounds six shillings and ninepence be paid out of the publick treasury to Cpt. Samuel Vetch, to imburse him the same sum which he supplied M^r. Williams, the above-named petitioner. [*Concurred in by the Council, and approved November 28.*]

CHAPTER 85.

ORDER FOR THANKING THE GOVERNOR FOR HIS EFFORTS TO OBTAIN THE RETURN OF PRISONERS FROM CANADA, AND FOR ADVISING HIM AS TO HIS ACTION ON THE PROPOSALS OF THE GOVERNOR OF CANADA RESPECTING A TRUCE AND EXCHANGE OF PRISONERS, ETC.

UPON READING the Letters, and Articles for a Truce, and Exchange of Prisoners, lately received from the Governour of Canada.

Ordered — That the Thanks of this House be Rendered to His Excellency the Governour for his Care, & Endeavours, to Obtain the Return of our Prisoners.

And That His Excellency be assured We shall not be wanting, to do what is proper, for us according to the utmost of our ability, for the Defence of this Her Maj^{ties} Province, Trusting in the good Providence of God, for our Security, But Think It not advisable, nor Consistent with Her Maj^{ties} Honour, or the just Rights, and Interests of this Her Province, That the articles offered by the Governour of Canada should be Complied withall,

And as His Excellency was Pleased formerly to advise with this

* No copy of this letter has been found in the archives.

House, referring to His offer to the Govern^r of Canada, for the Exchange of Prisoners, and lately to Communicate to Us, the articles, Sent in July last to the s^d Govern^r of Canada, for Exchange of Prisoners and his Letter to His Excellency the Govern^r of New York, relating to the s^d affair with which we are well Satisfied: So We Shall leave It with His Excellency and Council, upon advice from the Govern^r of New York to Return answer to the s^d articles Proposed by the Govern^r of Canada, in such manner as shall be Consistent, with Her Majesties Honour, and the just Interests of Her Subjects of this Province, whom we Represent. [*Concurred in by the Council, and passed November 30.*]

CHAPTER 86.

ORDER APPOINTING A COMMITTEE TO HEAR THE PARTIES TO THE CONTROVERSY IN THE TOWN OF LANCASTER RESPECTING THE SITE OF THEIR NEW MEETING-HOUSE, ETC. [*Approved November 30.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 87.

RESOLVE FOR ALLOWING AND PAYING FIFTY POUNDS TO ISAAC ADDINGTON, SECRETARY OF THE PROVINCE, FOR HIS EXTRAORDINARY SERVICES DURING THE YEAR ENDING DECEMBER, 1705.

Resolved, That the sum of fifty pounds be allowed and paid out of the publick treasury to the Hon^{ble} Isaac Addington, Esq^r, for his extraordinary service for this province the year currant, ending in December next. [*Approved November 30.*]

CHAPTER 88.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO ANDREW BELCHER FOR HIS SERVICES AS COMMISSARY-GENERAL DURING THE YEAR ENDING AUGUST 19, 1705.

Resolved, That the sum of two hundred pounds be allowed and paid out of the publick treasury to Andrew Belcher, Esq^r, commissary-general, for his good service in that office the year past, ending the nineteenth day of August last. [*Approved November 30.*]

CHAPTER 89.

RESOLVE FOR ALLOWING AND PAYING SIXTY POUNDS TO SAMUEL WILLARD, VICE-PRESIDENT OF HARVARD COLLEGE, FOR HIS SERVICES DURING THE YEAR ENDING SEPTEMBER 30, 1705.

Resolved That the Sum of Sixty Pounds be Allowed, and Paid out of the publick Treasury to the Reverend M^r Samuel Willard Vice President of Harvard Colledge, for his Service the Year past expiring the thirtieth day of Septem^r last. [*Approved November 30.*]

CHAPTER 90.

RESOLVE FOR THE FURTHER ALLOWANCE OF SIXTEEN POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, FOR HIS SERVICES DURING THE CURRENT YEAR.

Resolved, That the sum of sixteen pounds be further allowed and paid out of the publick treasury to M^r John White, clerk of this house, for his service the year currant, ending in May next. [*Concurred in by the Council, and approved November 30.*]

CHAPTER 91.

RESOLVE FOR ALLOWING AND PAYING TWENTY-TWO POUNDS OUT OF THE PROVINCE TREASURY TO JOHN BORLAND, IN FULL FOR THE TRANSPORTATION OF ELEVEN CAPTIVES FROM CANADA.

Resolved — That the Sum of Twenty & Two Pounds be allowed, and Paid out of the publick Treasury to M^r John Borland in full for the Passage, of Eleven Captives, brought in a vessell of His from Canada. [*Approved November 30.*]

CHAPTER 92.

RESOLVE DECLARING THE COMPLAINT OF SEVERAL OF THE GARRISON AT CASTLE WILLIAM, IN REGARD TO THE CLOTHING SUPPLIED BY THE COMMISSARY-GENERAL, TO BE GROUNDFLESS.

In Council. Nov^r ult. 1705/.

WHEREAS Several of the Garison at Her Ma^{ty}s Castle William were heard before this Court upon a Petition prefer'd by them, therein Complaining of the Meanness of the Clotheing Supplied by m^r Commissary General, And the Clotheing Shewn forth, and m^r Commissary setting forth the prices whereat the s^d Clothing was charged; which are judged to be moderate and the Clotheing good & Serviceable.

Resolved That the said Complaint is groundless and no Just cause for the same/.

Sent down for concurrence/.

Is^a ADDINGTON *Sec^{ry}*

In the House of Representatives. Nov^r ult^o 1705: Read. Dec^r 1^o Read and

Ordered a Concurrence with the following Addition,* That Their Complaint for want of Pay is not groundlesse, and their not being paid is grievous to this House, Since this Court have made Provision that souldiers Should be paid once in four months.

THOMAS OAKES *Speaker*

[*Passed December 1.*

CHAPTER 93.

RESOLVE FOR THANKING CAPTAIN NATHANIEL CARY FOR HIS SERVICES FOR THE PROVINCE, AND FOR ALLOWING AND PAYING HIM THREE HUNDRED TWENTY-SIX POUNDS EIGHT SHILLINGS AND EIGHTPENCE OUT OF THE PROVINCE TREASURY FOR HIS WAGES AND EXPENSES IN PROCURING ORDNANCE AND MUNITIONS OF WAR FROM ENGLAND.†

THE FOLLOWING RESOLVE pass'd by the represent^{ves}. upon the accompts of Cpt. Nath^l Carey, lately employed on a voyage to England in the service of this province; viz., —

Resolved, That the thanks of this court be given to Cpt. Nathaniel Carey for his good service, and that the sum of three hundred twenty and six pounds eight shillings and eightpence be allowed and paid to him out of the publick treasury, in full of his accompt of wages, expence, and charge of ordnance and stores ordered by her majesty for the service of this province. [*Concurred in by the Council, and approved December 1.*

CHAPTER 94.

RESOLVE FOR ESTABLISHING THE WAGES OF THE OFFICERS AT CASTLE WILLIAM DURING THE WAR, ETC.

THIS House duly Considering what great Consequence, Her Majestys Castle William, is of, for the Safety, and Defence of this Her Majesties Province, and apprehending, it very unsafe, That Two Such Important Offices, as Lieutenant, and Master-Gunner, of the Said fortification, be Sustained by one, and the Same Person, more especially in a time of War.

Earnestly move His Excellency That the said Two Offices, may be Committed, to two Severall Suitable Persons, and be exercised Separately.

And Resolve That for and during the present War with France, and Spaine, there be Paid out of the Publick Treasury, the sum of Sixty Pounds, *p* annum, to the Lieutenant of the Castle, and the Sum of

* This "addition" appears not to have been concurred in by the Council. The rest of the resolve seems to have been passed as effectually as if the House, in their vote, had stopped at the word "concurrence."

† See vote, 1704–5, chapter 42.

forty Pounds *p* annum to the Master-Gunner, and that the Lieutenant be Paid the Arrears of what wages is due to him, after the Same Rate of Sixty Pounds *p* annum. [*Concurred in by the Council, and passed December 1.*]

CHAPTER 95.

ORDER FOR ALLOWING AND PAYING TEN POUNDS AND SIXTEEN SHILLINGS OUT OF THE PROVINCE TREASURY TO MATTHEW CAREY, AND NINE POUNDS TEN SHILLINGS AND FOURPENCE TO THOMAS SILL,* FOR THEIR SERVICES AS WAITERS TO THE IMPOST OFFICE TO NOVEMBER 30, 1705.

Ordered, That the sum of ten pounds and sixteen shillings be allowed and paid out of the publick treasury to Matthew Carey, and the sum of nine pounds ten shillings and fourpence to Thomas Scill, for their service as waiters on the impost office to the thirtieth of November past. [*Approved December 1.*]

CHAPTER 96.

RESOLVE FOR EMITTING EIGHT THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT; AND FOR GRANTING A TAX OF TEN THOUSAND POUNDS. [*Approved December 3.*]

[*Printed in the notes to the acts of the year 1705-6.*]

CHAPTER 97.

RESOLVE PROVIDING FOR THE PAYMENT OF DEBENTURES FOR SOLDIERS' WAGES. [*Approved December 3.*]

[*Printed in the note to the act of September 9, 1703-4.*]

CHAPTER 98.

RESOLVE FOR PAYING TEN POUNDS OUT OF THE PROVINCE TREASURY TO JOHN FISHER FOR HIS SERVICES IN THE CARE OF THE FRIENDLY INDIANS AT NATICK.†

THE FOLLOWING RESOLVE pass'd in the house of represent^{res.} upon the petition of Sergeant John Fisher, praying payment for his service in the care in looking after the friend Indians of Natick, was read and concur'd; viz., —

Resolved That The sum of Ten Pounds be paid out of the Publick Treasury to the Petitioner [*Approved December 5.*]

* Savage gives this name as "Sill, Syll or Scill."

† See order of 1703-4, chapter 121.

CHAPTER 99.

ORDER FOR DEDUCTING TWO POUNDS SEVEN SHILLINGS AND FOURPENCE FROM THE WAGES DUE TO SAMUEL LITTLEFIELD; BEING THE AMOUNT OF A DEBENTURE ISSUED BY MISTAKE, AND FOR ALLOWING NEHEMIAH HUNT CREDIT THEREFOR; ALSO FOR ALLOWING COMPENSATION TO HENRY EMMES FOR SUMMONING WITNESSES, AND TO SAID HUNT FOR RETURNING THE DEBENTURE TO THE PROVINCE TREASURER.

Ordered, That the sum of two pounds seven shillings and fourpence be subducted out of the wages remaining due to Sam^l. Littlefield, and that Nehemiah Hunt, constable of the town of Concord, have credit with the treasurer the said sum of two pounds seven shillings and fourpence; the said Littlefield and his father having had and disposed of two debentures of the value aforesaid for one and the same service; and that the sum of fourteen shillings be allowed and paid out of the publick treasury to M^r. Henry Emms (messenger of the house), sent to summon Capt^a. Tilestone and the said Littlefield to attend this court; and that the sum of twelve shillings be paid to the said Nehemiah Hunt, who brought in the mistaken debenture into the treasury. [*Approved December 5.*]

CHAPTER 100.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO JOSEPH DUDLEY FOR HIS SERVICES AS GOVERNOR, ETC.

Resolved, That the sum of two hundred pounds be allowed and paid out of the publick treasury to his excy. Joseph Dudley, Esq^r, captain-general and governour-in-chief of this her majestie's province, for his support in managing the affairs of the governm^t. [*Approved December 5.*]

CHAPTER 101.

RESOLVE FOR ALLOWING AND PAYING THIRTY POUNDS OUT OF THE PROVINCE TREASURY TO WILLIAM DUDLEY FOR HIS SERVICES AND EXPENSES IN PROCURING THE RETURN OF CAPTIVES FROM CANADA.

Resolved That the sum of Thirty Pounds be Allowed, and Paid out of the publick Treasury to M^r. William Dudley, for his Expences and Trouble, in Obtaining Captives, at Canada [*Approved December 5.*]

CHAPTER 102.

ORDER DIRECTING THAT TWO IRRELIGIOUS, PROFANE AND SCANDALOUS PRINTED PAMPHLETS, WITH A LETTER SUBSCRIBED JOHN ROGERS AND JOHN ROGERS, JUNIOR, BE PUBLICLY BURNED IN BOSTON.*

Ordered That two Irreligious prophane & Scandalous printed Pamphlets sent to this Court, with a Letter Subscribed John Rogers & John Rogers jun^r be burn'd in the great Street in Boston neer the whipping Post, by the Common Execution^r on the morrow at one a'clock afternoon. [*Approved December 5.*]

CHAPTER 103.

ORDER APPOINTING A HEARING ON THE PETITION OF FAITH WALDO, PRAYING FOR LEAVE TO SELL THE REAL ESTATE OF HER LATE HUSBAND, JEREMIAH JACKSON, DECEASED; AND FOR NOTIFYING THE HEIR OF SAID JACKSON, ETC.

A PETITION of Faith Waldo, praying to be impowered to make sale of a house and land belonging to the estate of her former husband, Jeremiah Jackson, dec^d, was read and,—

Ordered, That this petition be refer'd to the next session of this court, to be heard on the first Tuesday thereof, and that the heir of Jeremiah Jackson be notified thereof and directed to attend at that time. [*Approved December 5.*]

CHAPTER 104.

ORDER APPOINTING A HEARING AT THE NEXT SESSION OF THE GENERAL COURT ON THE PETITION OF ABIGAIL WATKINS, WIDOW OF JOHN WATKINS, LATE OF CHARLESTOWN, DECEASED, PRAYING FOR LEAVE TO SELL THE ESTATE OF SAID DECEASED FOR THE PAYMENT OF HIS DEBTS; AND FOR NOTIFYING THE HEIRS OF SAID WATKINS, ETC.

A PETITION of Abigail Watkins, relict and administ^r of the estate of John Watkins, late of Charlestown, dec^d, praying liberty to sell the estate of her said late husband for payment of debts and supply of her necessities, was read and,—

Ordered That this Petition be Referred to the next session of this Court, to be heard on the first Thursday thereof, and That the heires of John Watkins be notified thereof & Directed to attend. [*Approved December 5.*]

* These two persons (father and son) were, respectively, the founder of the sect called "Rogerenes." and his disciple.

ORDERS, VOTE AND RESOLVES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TENTH DAY OF APRIL, A.D. 1706.

CHAPTER 105.

ORDER AUTHORIZING JOHN PITTS AND SAMUEL HOLLAND OF BOSTON TO BRING AND PROSECUTE A WRIT OF REVIEW OF THE JUDGMENT RENDERED AGAINST THEIR TENANTS, BY DEFAULT, IN AN ACTION OF EJECTMENT BROUGHT BY JAMES MEINZIES IN THE INFERIOR COURT OF COMMON PLEAS FOR MIDDLESEX COUNTY.

UPON READING the petition of John Pitts and Samuel Holland of Boston, merchants, setting forth their aggrievance at a judgement given by default at an inferiour court for the county of Middlesex upon a writt of ejectment brought by James Menzies against their tenants of a certain house and land in Charlestown; and upon the said James Menzies' appearance and his own free submission, —

Ordered That the Pet^{rs} John Pitts and Samuel Holland be and hereby are Impowred in their own names to bring & prosecute a Writ of Review of the cause mentioned in the Pet^{ns} at the next Inferiour Court for the County of Midd^s & to carry the same through the course of the Law. — [*Approved April 11, 1706.*]

CHAPTER 106.

ORDER FOR CONTINUING TO THE NEXT SESSION OF THE GENERAL COURT THE SEVERAL HEARINGS REFERRED TO THE PRESENT SESSION.

Ordered, That the hearings* refer'd to this sessions be continued and attended upon the second Wednesday of the next session of this court. [*Approved April 11, 1706.*]

* *Sic*: in the Library series; but "hearing" in the series of records in the Secretary's office.

CHAPTER 107.

RESOLVE FOR ALLOWING AND PAYING FIVE POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL BUTTERFIELD OF CHELMSFORD, TAKEN PRISONER BY THE INDIANS IN 1704 WHILE IN THE QUEEN'S SERVICE, FOR HIS LOSSES AND WAGES.

UPON READING the petition of Samuel Butterfield setting forth his being taken captive by the Indian enemy, cruelly used and strip'd of all, having kill'd one of them after they had seized him, —

Resolved That the Sum of Five Pounds be Allowed, & Paid out of the Publick Treasury, to Sam^l Butterfield the Petitioner in Consideration of his Losse, & service. [*Approved April 11, 1706.*]

CHAPTER 108.

VOTE FOR ACCEPTING THE REPORT OF THE COMMITTEE APPOINTED TO AUDIT THE ACCOUNTS OF ANDREW BELCHER, COMMISSARY-GENERAL.

THE REPORT of the audit appointed upon the accompts of Andrew Belcher, Esq^r, commissary-general, from the tenth of October past, together with the accompts, amounting to five thousand seven hundred eighty-one pounds thirteen shillings and eleven pence, including the former ballance, was presented, whereby it appears that on the 30th day of March, 1706, there was due from the province to the said Andrew Belcher the sum of two thousand fifty-nine pounds nineteen shillings and sixpence, there being a warrant of his excellency and council dated the 22^d of February last, to the treasurer to pay to the said Belcher fifteen hundred pounds, which sum he has not yet received nor any part thereof, and therefore has not given credit to the province for the same in this accompt.

W^{ch}. report was read and accepted. [*Approved April 12, 1706.*]

CHAPTER 109.

ORDER APPOINTING A COMMITTEE TO PURCHASE TWENTY BARRELS OF GUNPOWDER FOR THE USE OF THE PROVINCE.

Ordered — That Twenty Barrels of good Gunpowder, be Purchased, at the Charge, and for the Service of the Province, at the best Rate that may be.

That the Commissary Gener^l L^t Col^o Samuel Checkley, and M^r Elizur Holyoke be a Committee to Effect the Same. [*Approved April 12, 1706.*]

CHAPTER 110.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO JOHN CAMPBELL FOR HIS SERVICES IN CONVEYING LETTERS ON THE QUEEN'S SERVICE BY THE WEEKLY POST FOR THE YEAR PAST, ETC.

Resolved — That the Sum of Twenty Pounds, be allowed, & Paid out of the publick Treasury to John Campbell the Petitioner in consideration of his Service, in conveying of Letters, on her Maj^{ties} Service, by the weekly Post, the last year, and the like Sum of Twenty Pounds, for the Said Service the year currant ending the first day of July next.

Sent up for Concurrence.

THOMAS OAKES *Speak^r*

April. 12th 1706. In Council. Read and vot^d a Concurrence to the first twenty pounds for the year past. The other Twenty pounds refer'd to Consideration at the next Session, the year not being up.

Is^a. ADDINGTON *Sec^{ry}*.

[*Approved April 12, 1706.*]

CHAPTER 111.

RESOLVE FOR EMITTING FOUR THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT; AND FOR GRANTING A TAX TO MAKE UP ANY DEFICIENCY IN THE FUND FOR REDEEMING THE SAME. [*Approved April 12, 1706.*]

[*Printed in the notes to the acts of the year 1705-6.*]

CHAPTER 112.

ORDER FOR A BRIEF TO BE CIRCULATED THROUGHOUT THE PROVINCE FOR CONTRIBUTIONS TO RELIEVE THE DISTRESSED INHABITANTS OF THE ISLAND OF SAINT CHRISTOPHER, ETC.

Ordered That His Excellency the Govern^r & the Council be Desired to Issue forth, Briefs to the Severall Towns, & Precincts of this Province, exciting them to expresse their Charity by free Contribution for the Relief of the Distressed Inhabitants of the Island of Saint Christophers, and Appoint a suitable Person or Persons to receive what shall be Collected, and vest and forward the same, in Provisions, as soon as may be without any charge to the Province [*Approved April 12, 1706.*]

RESOLVES, ORDERS AND
VOTES,

PASSED 1706-7.



LEGISLATIVE LIST

FOR

1706-7.

HIS EXCELLENCY JOSEPH DUDLEY,
CAPTAIN-GENERAL, AND GOVERNOR-IN-CHIEF, ETC.*

ISAAC ADDINGTON, Esq.,

SECRETARY OF THE PROVINCE.

COUNCILLORS OR ASSISTANTS.

Of the inhabitants of, or proprietors of, lands within the territory formerly called the Colony of the Massachusetts Bay:—

WAIT WINTHROP, Esq.,
JAMES RUSSELL, Esq.,
JOHN HATHORNE, Esq.,
EPHRAIM HUNT, Esq.,†
ELISHA HUTCHINSON, Esq.,
SAMUEL SEWALL, Esq.,
WILLIAM BROWNE, Esq.,‡
ISAAC ADDINGTON, Esq.,
JOHN PHILLIPS, Esq.,

JONATHAN CORWIN, Esq.,
JOHN FOSTER, Esq.,
PENN TOWNSEND, Esq.,
JOHN HIGGINSON, Esq.,
ANDREW BELCHER, Esq.,
SAMUEL PARTRIDGE, Esq.,§
EDWARD BROMFIELD, Esq.,
SAMUEL LEGG, Esq.,
SAMUEL APPLETON, Esq.

Of the inhabitants of, or proprietors of, lands within the territory formerly called New Plymouth:—

JOHN THACHER, Esq.,
ISAAC WINSLOW, Esq.,

NATHANIEL PAINE, Esq.,||
JOHN CUSHING, junior, Esq.¶

Of the inhabitants of, or proprietors of, land within the territory formerly called the Province of Maine:—

ELIAKIM HUTCHINSON, Esq.,

BENJAMIN BROWNE, Esq.,**

ICHABOD PLAISTED, Esq.††

* For the full title, see vol. VII., p. 331.

† Elected June 6, in place of Elisha Cooke who was negatived by the Governor.

‡ "Brown," in the Secretary's list.

§ "Partridge," in the Secretary's list.

|| "Payne," in the Secretary's list.

¶ The "junior" is omitted in the Secretary's list.

** "Brown," in the Secretary's list. He was elected June 6, in place of Joseph Hammond who was negatived by the Governor.

†† Plaisted appears not to have been sworn until the seventh of August.

Of the inhabitants of, or proprietors of, land within the territory lying between the river of Sagadahoc and Nova Scotia: —

JOHN LEVERETT, Esq.

For the Province, at large: —

JOHN WALLEY, Esq.,

JOHN APPLETON, Esq.

REPRESENTATIVES OR DEPUTIES.

May 29, 1706 to April 17, 1707.

MR. THOMAS OAKES, SPEAKER.

COUNTY OF SUFFOLK.

<i>Boston,</i>	Mr. Thomas Oakes,*
	Col. Samuel Cheekley,
	Capt. Ephraim Savage,
	Mr. Elizur Holyoke.
<i>Roxbury,</i>	Mr. William Denison.
<i>Dorchester,</i>	Mr. Hopestill Clap.
<i>Milton,</i>	Capt. Thomas Vose.
<i>Mendon,</i>	Sergeant William Holbrook.†
<i>Braintree,</i>	Mr. John Baxter.
<i>Weymouth,</i>	Capt. Stephen French.
<i>Hingham,</i>	Maj. Samuel Eells.‡
<i>Dedham,</i>	Mr. John Fuller.
<i>Medfield,</i>	Mr. Henry Adams.
<i>Brookline,</i>	Mr. John Winchester.

COUNTY OF ESSEX — *Concluded.*

<i>Marblehead,</i>	Capt. John Calley.
<i>Beverly,</i>	Mr. Samuel Balch.
<i>Wenham,</i>	Deacon William Fiske.**
<i>Topsfield,</i>	Mr. Elisha Perkins.
<i>Ipswich,</i>	Mr. Nehemiah Jewett,
	Mr. William Goodhue.
<i>Rowley,</i>	Mr. John Dresser.
<i>Boxford,</i>	Mr. Thomas Perley.††
<i>Andover,</i>	Capt. Christopher Osgood.
<i>Gloucester,</i>	Mr. Benjamin Haskell.‡‡
<i>Haverhill,</i>	Mr. James Saunders.
<i>Salisbury,</i>	Mr. Richard Hubbard.
<i>Amesbury,</i>	Mr. Thomas Harvey.§§

COUNTY OF MIDDLESEX.

	COUNTY OF ESSEX.	<i>Cambridge,</i>	Capt. Thomas Oliver.||||
<i>Salem,</i>	Mr. Benjamin Lynde,	<i>Charlestown,</i>	Capt. Nathaniel Cary.¶¶
	Mr. Daniel Epes.§	<i>Watertown,</i>	Jonas Bond, Esq.
<i>Newbury,</i>	Capt. Henry Somersby.||	<i>Woburn,</i>	James Converse, Esq.,***
<i>Lynn,</i>	Mr. John Poole.¶¶		Ensign John Peirce.

* "Oakes," in the town records, and "Oaks," in the Secretary's list.

† Not in the Secretary's list although he was sworn. At a town meeting held Jan. 6, 1706-7, the following acknowledgment of indebtedness was voted: "To Sergt. William Holbrook for serving as the town's Representative 61 Days and money expended nine pound five shillings."

‡ "Eells," in the Secretary's list.

§ Josiah Wolcott was chosen to serve with Lynde May 13, but subsequently, and before qualifying, declined and was excused. At a town meeting held June 14, on the call of the selectmen but apparently not by precept from the representatives, Epes was chosen to fill the vacancy.

|| "Somersby," in the Secretary's list, and signed with a circumflex, apparently to show that the writer spelled his name with two m's.

¶¶ "Pool," in the Secretary's list.

** Erroneously written "Mr. Samuel," in the Secretary's list.

†† "Peerly," in the Secretary's list.

‡‡ "Haskell," in the town records.

§§ He was sworn, and his election is shown by the town records, but his name is not in the Secretary's list.

|||| John Leverett was chosen at the town meeting in May, but was elected to the Council, and, on the fifth of June, Oliver was chosen in his place.

¶¶ "Carcy," in the Secretary's list.

*** "Converse," in the town records. He was chosen May 13, but died, according to Savage, July 8th, *ae.* 61. A precept was issued by the House for the choice of a successor, or successors, and, on the thirteenth of August, Ensign Peirce was chosen. He took and subscribed the qualifying oaths on the twenty-fifth of October.

COUNTY OF MIDDLESEX — *Concluded.*

<i>Malden,</i>	Mr. Ebenezer Hill.*
<i>Reading,</i>	Maj. Jeremiah Sweyne.†
<i>Billerica,</i>	Lieut. John Stearns.
<i>Concord,</i>	Mr. William Wilson.
<i>Chelmsford,</i>	Capt. Jerahmeel Bowers.
<i>Sudbury,</i>	Deacon Edmund Rice.‡
<i>Dunstable,</i>	Lieut.-Col. Jonathan Tyng.
<i>Groton,</i>	Mr. Simon Stone.
<i>Lancaster,</i>	Mr. John Houghton.
<i>Marlborough,</i>	Capt. Thomas How.
<i>Newton,</i>	Mr. John Spring.
<i>Sherburne,</i>	Lieut. Jonathan Morse.§

COUNTY OF HAMPSHIRE.

<i>Springfield,</i>	Joseph Parsons, Esq.
<i>Northampton,</i>	Mr. Ebenezer Strong.
<i>Hadley,</i>	Mr. Daniel Marsh.
<i>Hatfield,</i>	Deacon Samuel Marsh.||

COUNTY OF PLYMOUTH.

<i>Plymouth,</i>	Mr. Nathaniel Morton.
<i>Scituate,</i>	Mr. John Barker.

COUNTY OF PLYMOUTH — *Concluded.*

<i>Marshfield,</i>	Mr. Ephraim Little.
<i>Duxbury,</i>	Capt. Seth Arnold.
<i>Bridgewater,</i>	Mr. David Perkins.
<i>Barnstable,</i>	Mr. Samuel Hinkley.¶
<i>Eastham,</i>	Mr. Samuel Knowles.
<i>Yarmouth,</i>	Mr. Zachariah Paddocke.

COUNTY OF BRISTOL.

<i>Bristol,</i>	Mr. Nathaniel Blagrove.
<i>Taunton,</i>	Mr. Robert Crosman.
<i>Rehoboth,</i>	Ensign Moses Read.**
<i>Little Compton,</i>	Col. Benjamin Church.††
<i>Swansey,</i>	Mr. Hezekiah Luther.

COUNTY OF YORK.

<i>York,</i>	Samuel Donnell, Esq.‡‡
<i>Kittery,</i>	Mr. Joseph Hammond.§§

ISLAND OF NANTUCKET.

Capt. Richard Gardner.

JOHN WHITE, *Clerk.*

JAMES MAXWELL, *Doorkeeper to the Governor and General Court.*

HENRY EMMES, *Messenger of the House of Representatives.*|||

* "Hills," in the Secretary's list.

† "Swain," in the Secretary's list.

‡ "Deacon," in the town records, but "Mr.," in the Secretary's list.

§ "Lieut.," in the town records, but "Mr.," in the Secretary's list.

|| "Deacon," in the town records, but "Mr.," in the Secretary's list.

¶ "Hinkley," in the Secretary's list.

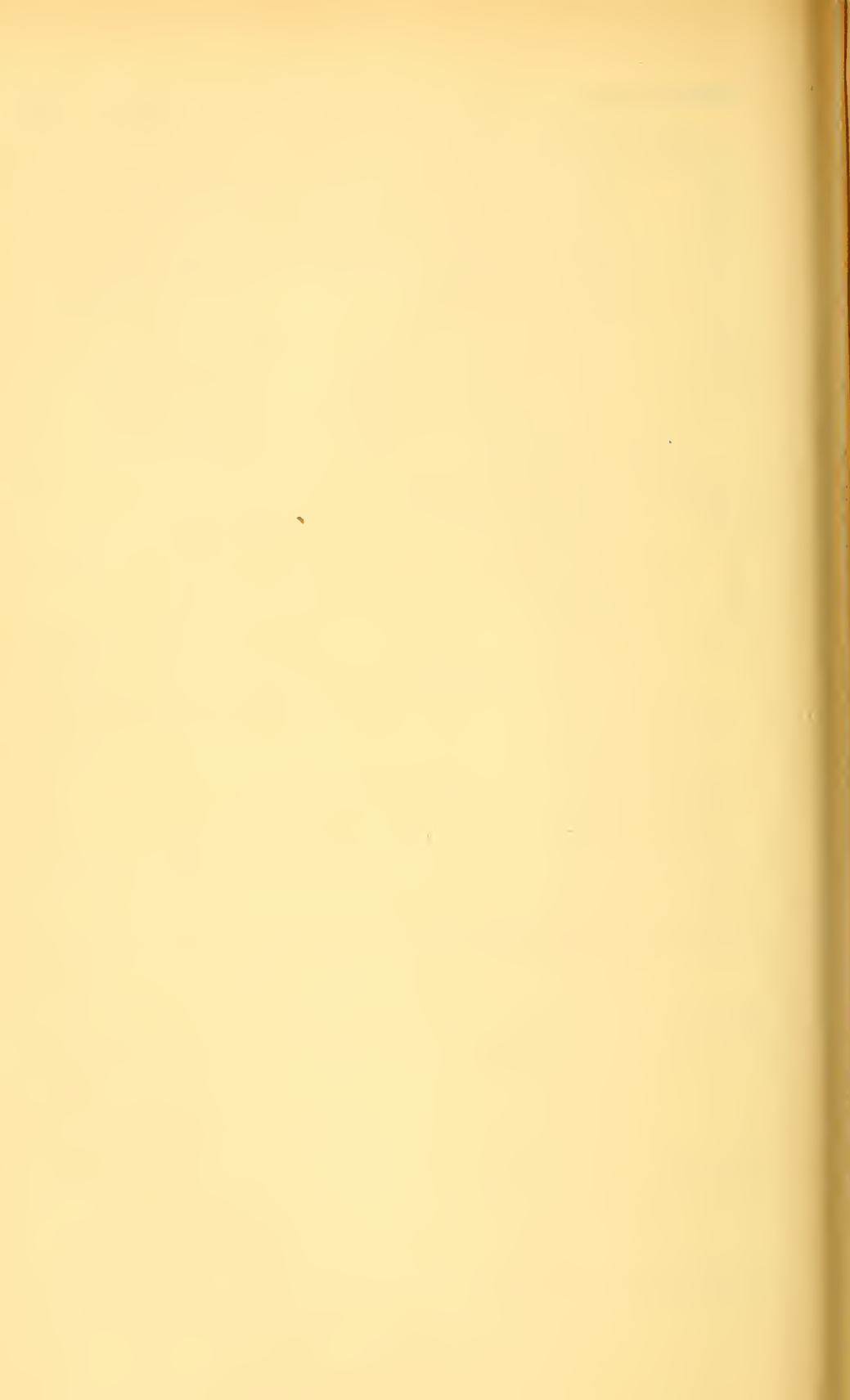
** "Ensign," in the town records, but "Mr.," in the Secretary's list.

†† From the town records. Although he subscribed the qualifying oaths his name is not in the Secretary's list.

‡‡ "Donnell," in the Secretary's list.

§§ "Joseph Hammond, Esq.," in the town records, but "Mr. Joseph Hammond, junior," in the Secretary's list. He wrote his surname, "Hammond."

||| He served as messenger during the first and second sessions. See chapter 86, *post*.



RESOLVES, ORDERS AND VOTES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-NINTH DAY OF MAY, A.D. 1706.

CHAPTER 1.

RESOLVE APPOINTING A HEARING ON THE PETITION OF THE INHABITANTS OF THE TOWN OF LANCASTER FOR A SETTLEMENT OF THE CONTROVERSY RESPECTING THE SITE OF THEIR MEETING-HOUSE.*— [*Approved June 1.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 2.

RESOLVE FOR APPOINTING A COMMITTEE TO IMPRESS ONE HUNDRED AND TWENTY-SIX BARRELS OF GUNPOWDER FOR THE QUEEN'S SERVICE; AND DIRECTING THE PROVINCE TREASURER TO DISTRIBUTE PART OF IT AMONG THE TOWNS, ETC.

In y^e house of Representatives

Resolved. That 126 Bar^{rs} of Gun powder be taken up for y^e Queens Service wⁱⁿ in this province: & y^t Coll. Samth Checkley Mr Elizer Holi-oake are appoynted a Comittee to Joyne wth a Comittee of y^e Hon^{ble} Board to p^rforme y^e same, & y^t a Sutable Quantity of y^e sd powder be Order^d for y^e vse of y^e Respectiue Townes, & y^t it be Lodged in y^e hands of y^e province Treasure^r who shall dispose of it, to y^e Selectmen of Each Towne (y^t want) to Compleat their stock as y^e Law directs as also 30th of s^d powder to Each Towne of Sixty Men & other Townes according to proportion for y^e supplying of p^rticuler p^rsons to Make up their stock as y^e Law directs; & y^t y^e Selectmen haue it at y^e Rate as it is purchased by y^e province: the sd Comittee are not to Engage to be pd to those they receive y^e powder of, aboue Eleuen pounds ten shillings p^r Barrell.

W^{ch}. resolve, being read at the board, was agreed to, and Elisha Hutchinson and Penn Townsend, Esq^{rs}., were named a committee of the board to join the comm^{tee}. of the represent^{ves} in that affair. [*Approved June 4.*]

* See order, 1705-6, chapter 86.

CHAPTER 3.

ORDER FOR APPOINTING A COMMITTEE TO CARRY INTO EFFECT THE RESOLVE OF NOVEMBER 7, 1705, FOR MAKING A PRESENT TO COLONEL RÖMER AND HIS SON.*

In the House of Representatives. June 5th 1706.

Ordered — That Col^l Samuel Checkley, and Captⁿ Nathaniel Carey be a Committee to Joine, with Such as the Hon^{ble} Board Shall Appoint, to Effect, what was Voted by this Court, in Nov^r last, as a Gratification to Col^l Römer, & his Son.

Sent up for Concurrence

THOMAS OAKES *Speak*^r

June. 6th 1706. In Council. Read and pass'd a concurrence, And the Secretary & And^r Belcher Esq^z were named a committee of the Board for the affayre aboves^d —

IS^a ADDINGTON *Secry.* —

[*Passed June 6.*

CHAPTER 4.

VOTE ADVISING THE GOVERNOR TO ACCEPT THE OFFER OF OWANECO, AN INDIAN CHIEF, TO ENLIST TWENTY MOHEAGS FOR THE QUEEN'S SERVICE AT THE EASTWARD.

THE GOVERNOUR acquainted the Council That Owaneco had Lately oferd him twenty Moheegs for the Eastern service, which he was willing to accept being sensible that they were orderly in their Last service there, & that it will save The march of so many English men not easy now to be Spared

The Council are of opinion that it is a service to the province & Desire the Governor will entetayn them accordingly — [*Concurred in by the House, and passed June 7.*

CHAPTER 5.

ORDER FOR ACCEPTING THE RETURN MADE BY THE SELECTMEN OF THE TOWN OF KITTERY, OF THEIR APPORTIONMENT OF THE THIRTY-EIGHT POUNDS OF TAXES ABATED BY THE RESOLVE OF JUNE 30, 1705.†

A PET^{CON} of Jos. Hamond Represent. for y^e Town of Kittery, praying yt y^e return made by y^e Selectinen of y^e s^d Town in apportioning the abatem^t of £.38. to y^e poor of y^e s^d Town out of their Tax in y^e year 1704, according to y^e direction of this Court Praying y^t y^e s^d Return may now be accept^d altho. not made in time, y^t y^e T^r may be restrained from sending forth warr^{ts} of Distress ag^t those constables to whome y^e same was committed. was sent up from y^e Repre with y^e Order of yt House thereon. viz^t That y^e pray^t of y^e s^d Pet^{CON} be granted w^{ch} Pet^{CON} & order thereon was read & agreed to. [*Approved June 7.*

* See vote, 1705-6, chapter 67

† See resolve, 1705-6, chapter 42.

CHAPTER 6.

VOTE APPROVING THE LETTERS OF THE GOVERNOR TO THE GOVERNMENT OF CONNECTICUT, SOLICITING AID FOR THE COUNTY OF HAMPSHIRE.

HIS EXCELLENCY communicated his letters to the govern^r of Connecticut for assistance from that government to West Hampshire, w^{ch}. was sent to the represent^{ves}. for perusal and approved by that house.
[*Passed June 10.*]

CHAPTER 7.

RESOLVE FOR ABATING TWELVE POUNDS OF THE EXCISE DUE BY JOHN CARY OF BOSTON, BREWER, WHILE HE WAS KEEPER OF THE GREEN DRAGON TAVERN AT BOSTON.*

UPON READING this day at the board a petition of John Carey of Boston, brewer, praying an abatement of the sum of twelve pounds due from him for excise, sent up from the representatives with the resolve of that house thereon; viz.,—

That the prayer of the petition be granted; the said resolve being put to vote at the board was concur'd. [*Approved June 10.*]

CHAPTER 8.

ORDER DIRECTING THE JUSTICES OF THE SUPERIOR COURT, ETC., TO REPORT TO THE GENERAL COURT THE PROCEEDINGS IN AN ACTION BROUGHT BY NATHANIEL KEENE† AGAINST JOHN SHEPARD,‡ BOTH OF KITTERY, IN WHICH JUDGMENT FOR A TRACT OF LAND, CLAIMED BY THE PLAINTIFF, WAS RENDERED AGAINST HIM; AND FOR A STAY OF EXECUTION, ETC.

UPON READING a petition of Nath^l. Keen of Kittery, praying relief in a case between him and John Shepherd, of the same place, relating to a tract of land,—

Ordered That the Justices of the Superiour Court at their next Sitting in Boston, Inquire into the proceedings had in the case within-mentioned, And Report the same to this Court at their next Session; The Pet^r to cause the other party to be Serv'd wth a Copy of this Petition and Order; And that they both attend the Superiour Court accordingly. — And y^e Execution for costs ag^t the Pet^r be stayed until the End of the next Session of this Court after Report made by the Justices as afores^d.—[*Approved June 11.*]

* See order, 1705-6, chapter 2.

† Written "Kene" by the plaintiff.

‡ Written "Sheppard" in the plaintiff's petition.

CHAPTER 9.

ORDER DIRECTING THE COMMISSARY-GENERAL TO PAY, WEEKLY, THE CARPENTERS EMPLOYED AT THE CASTLE, UPON THE ENGINEER'S CERTIFICATE OF THE TIME OF THEIR WORK, ETC.*

Ordered, That M^r Commissary-General do pay the carpenters employed at her majestie's castle, after the former rates, to be paid weekly, upon the engineer's note or certificate of the time of their work. [*Approved June 12.*]

CHAPTER 10.

RESOLVE FOR ALLOWING AND PAYING FIFTY POUNDS OUT OF THE PROVINCE TREASURY TO JOHN RÖMER FOR HIS SERVICES AT CASTLE WILLIAM; AND THAT NO FURTHER SUM BE DRAWN FOR A GRATUITY TO COLONEL RÖMER,† ETC.

WHEREAS the Committee Appointed to see the Order of this Court, for Gratifying of Col^o Romer, and his Son Effected: Report That Col^o Romer Accepts kindly the Thanks of this Court, for his good Service at Castle-William, but absolutely Refuses to Accept of any Gratuity for the Same.

Resolved — That the Sum of fifty Pounds, be Allowed, and Paid, out of the publick Treasury, to M^r John Romer, the S^d Col^o Romer's Son, in Consideration of his good Service at Castle William, and that no Sum be drawn out of the Treasury by vertue of the former order for Gratifying of the s^d Col^o Romer, & his Son. [*Approved June 13.*]

CHAPTER 11.

ORDER FOR THE ARREST AND RECOGNIZANCE OF SAMUEL VETCH, CHARGED BY THE HOUSE OF REPRESENTATIVES WITH ILLICIT TRADING WITH THE ENEMY.

In the House of Representatives June 13: 1706

This House having Strong Reasons to Believe That Capt^e Veech, has this Spring, been a voyage Eastward Trading with the french, or Indians or both, the open enemies, of Her Majesty and her good Subjects, which Reasons this House is ready to Communicate to the Hon^{ble} Board, are of Opinion That It will be for Her Majesties service, and the Interests of this Her Province, & therefore. haue

Ordered — That the s^d Captⁿ Veech be Taken into Custody,

* It does not expressly appear in the records that this order was passed concurrently; but as it appears to have been signed by the Governor, and seems properly to have required the consent of the House, it is here inserted.

† See order, chapter 3, *ante*.

and secured untill further Inquiry, can be made into the s^d affair, this House having sent for sundry Persons, likely, to give evidence therein.

Sent up for Concurrence.

THOMAS OAKES *Speaker*

June. 13th 1706. In Council. Read and Directed That the Judges of the Superiour Court do immediately take Caution of the said Capt^s Veech for his further attendance of the Assembly. Or Order him into custody of a messenger upon his refusal of Caution as above.

Is^d ADDINGTON *Sec^{ry}*

[*Approved June 13.*

CHAPTER 12.

RESOLVE FOR CONFIRMING A GRANT OF ONE THOUSAND POUNDS BY THE TOWN OF BOSTON FOR REPAIRING FORTIFICATIONS, ETC.

[*Approved June 13.*

[*Printed in the note to the act of November 16, 1692-3.*]

CHAPTER 13.

ORDER DIRECTING THE APPLICATION OF THE INCOME OF SCHOOL-LANDS IN SPRINGFIELD, AND FOR THE LAYING AND APPORTIONMENT OF TAXES FOR THE SUPPORT OF THE GRAMMAR-SCHOOL MASTER IN SAID TOWN, AND OF A READING- AND WRITING-SCHOOL IN THE WEST PRECINCT, ETC.

Ordered That y^e Estate of Lands appropriated to the Grammar Schoole in Springfield be continued as at present towards the Support of the Master; And that the Sum of Eight pounds in money p^a annū be assessd upon the whole Town towards the Support of a reading and writeing Schoole in the Precinct on the West side of the great River; And that the Select men annually assess Seven pounds more on the heads of the Parents and masters of the Schollars on that side, towards the Support of the Schoole there. — This Order to continue in force by the space of Seven years next comeing; And the above Sum of Eight pounds p^a annū to be applied to the better Support of the Grammar Schoole in case the Schoole on the West side be not rayseed & continued. — [*Approved June 14.*

CHAPTER 14.

VOTE FOR TRANSMITTING TO THE JUSTICES OF THE SUPERIOR COURT, ETC., THE WRITTEN EXAMINATIONS TAKEN BY ORDER OF THE HOUSE OF REPRESENTATIVES IN THE MATTER OF ILLICIT TRADING WITH THE ENEMY, ETC.*

MESS^{rs}. JEWETT and Blagrove attended his ex^{cy}. and council with a message from the house, and the examinations and papers lying before

* The action of the Council sufficiently indicates their concurrence, in the presence of the Governor, and justifies the insertion of this chapter.

that house, about unlawful trading, etc., w^{ch}. were read at the board and deliver'd to the judges further to examine, swear and bind over the witnesses for her majesty. [*Passed June 15.*]

CHAPTER 15.

ORDER APPOINTING A COMMITTEE TO EMPLOY THE BRIGANTINE COMMANDED BY JOHN BLEW, OR SOME OTHER VESSEL, ON A CRUISE TO THE EASTWARD, UNDER THE COMMAND OF CAPTAIN JOHN CALLEY, TO SEIZE ALL PERSONS OR VESSELS SUSPECTED OF TRADING WITH THE ENEMY, AND TO HAVE SAID VESSEL PROPERLY EQUIPPED AND MANNED FOR THAT SERVICE.

In the House of Representatives June 17: 1706

Ordered—That His Excellency the Governour, be Desired forthwith to give Order that the Briganteen Commanded by M^r John Blue be Taken up, and well fitted & Equipped, with Six or eight Great Guns, amunition & stores proportionable, and mann'd with fifty able men, well arm'd, with Provisions for the s^d men for 28 Daies, to be sent Eastward under Comand of Cap^t John Cawley to apprehend seize, & Bring in, all such Persons, vessels and their Loadings as he shall have Ground to Suspect, Designe, to Trade, or have been Trading with the french or Indian Enemy, or both & the abett^s of Such Traders and to do what other service he may have opportunity against the said enemy.

Sent up for Concurrence

THOMAS OAKES *Speak^r*

In Council. June. 17th 1706.

Ordered That m^r Commissary General, Capⁿ Calley and such other as the House shall name be a Comitte^e forthwth to take up the s^d Vessel abovementioned or such other Vessel as they shall thinke fit for the Service, and cause her to be forthwith equipped.

Sent down for concurrence.

Is^d ADDINGTON *Sec^{ry}*

Die p^dict: In the House of Representative

Voted a Concurrence, & that Capt: nathan^l Carey be added to the s^d Comitte^e

THOMAS OAKES *Speak^r*

[*Approved June 17.*]

CHAPTER 16.

ORDER FOR REQUESTING THE GOVERNOR TO ISSUE A PROCLAMATION* FOR THE ARREST OF WILLIAM ROUS, CHARGED WITH CARRYING ON ILLICIT TRADE WITH THE ENEMY.

In the House of Representatives June 19: 1706

WHEREAS this House, have twice Sent forth their Messenger, to Apprehend and Bring before them, Captⁿ William Rouse in order to a further Proceeding, with him, for the great Crime, of Trading with Her Maj^{ties} open enemies, the French, and Indians, which plainly appears to this House by diverse Evidences as well as his own Confes-

* The proclamation was issued, which is the only evidence discovered that the Council concurred. This order is not in the record.

sion but the s^d Rouse, is absconded, and not to be found, by the s^d Messenger.

Ordered—That His Excellency the Governour, be Requested, forthwith to Issue out, a Proclamation, for the Discovery and Apprehension of the s^d Rouse, That he may be Taken up & Rendred to this Court. [*Concurred in by the Council, and passed June 19.*]

CHAPTER 17.

VOTE REQUESTING THAT THE BRIGANTINE COMMANDED BY CAPTAIN JOHN BLEW BE NOT RETAINED IN THE SERVICE; AND FOR ACCEPTING THE OFFER OF THE PROVINCE GALLEY FOR THE EXPEDITION AGAINST PERSONS ENGAGED IN ILLICIT TRADE WITH THE ENEMY, AND PRAYING THAT THE SLOOP FLYING HORSE BE AT ONCE FITTED UP AS A TENDER, AND ALSO THAT THE SHIP OF WAR DEPTFORD BE ORDERED OUT ON A CRUISE.

A MESSAGE was sent to the house by John Walley and Ephraim Hunt, Esq^{rs}., to intimate that if Cpt. Cawley went in a close sloop with about fifty men, on pretence of a trading voyage, he would be capable of seizing the false and illegal traders, and might by their assistance probably decoy some of the Indians, rather than by going in such a warlike posture; but if the house think that figure will be the best, his ex^{cy}. will order the province galley to attend that service for the space of twenty days, the commander to observe the directions of Cpt. Cawley, who may be put on board there, and the sloop Flying Horse, with four men, to attend them, w^{ch}. will be most expeditious and save charge; but if, otherwise, the house rather choose the method they are now upon, with the brigantine, it shall be proceeded in; and to enquire if the sloop Flying Horse should also go on that service.

A message was brought up from the house by M^r Epes, Cpt. French, etc., to acquaint his excellency that the house accepted the offer made of the service of the galley in this affair; withall desiring that Cpt. Blew's brigantine may be forthwith discharged, and the sloop Flying Horse fitted up to attend Cpt. Cawley, to be first apprized.

And also desiring that her majestie's ship Deptford might forthwith be ordered out on a cruize. [*Concurred in by the Council, and passed June 19.*]

CHAPTER 18.

ORDER APPOINTING A HEARING ON THE PETITION OF SAMUEL LILLIE OF BOSTON, MERCHANT, PRAYING RELIEF FROM THE SERVICE OF AN *ALIAS* EXECUTION AWARDED AGAINST HIM BY THE SUPERIOR COURT, ETC., FOR A BALANCE WHICH HE CLAIMS WAS ILLEGALLY FOUND DUE BY REASON OF RECKONING BY WEIGHT, AND NOT BY TALE, SILVER TENDERED BY HIM IN SATISFACTION OF THE ORIGINAL EXECUTION.

UPON READING this day at the board a petition and complaint of Samuel Lillie of Boston, merch^t, praying the advice of the court and relief against the mislaying (as he sett^s forth) of an execution to satisfy a judgem^t recovered against him at the superiour court holden in

Boston in November, 1705, at the suit of Samuel Keeling and Charles Chauncey, his money being brought to the scale, which ought to have pass'd by tale,—

Ordered a Hearing on Friday next the 21st curr^t and that the party's be notified. by the Pet^r Serving them with a Copy. [*Concurred in by the House, and approved June 20.*]

CHAPTER 19.

ORDER EXEMPTING ERASMUS JAMES FROM LIABILITY TO AN ACTION OF TRESPASS FOR ANYTHING DONE BY HIM, WITHOUT MALICE, ON THE LAND RESTORED TO ROBERT BARTLETT IN ACCORDANCE WITH THE PRIVATE ACT OF NOVEMBER 16, 1705.*

UPON READING and due consideration of a petition prefer'd by Erasmus James of Marblehead, shipwright, praying relief against the suits of Robert Bartlett, of the same place, shoreman, on pretence of trespass done by the said James on part of the plain-farm land lying in Marblehead aforesaid, recovered by judgement of court and deliver'd to him by execution, whilst it was in his possession, and before the act of the court for restoring it to Bartlett. —

Ordered, That the Pet^r be in peace, and not liable to any Action for Trespass alledged to be done upon the Land within-mention'd by the Pet^r before the Act pass'd by this Court for restoring the Land to Bartlett, unless it be made appear to have bin done maliciously: — [*Approved June 21.*]

CHAPTER 20.

ORDER REQUESTING THE GOVERNOR TO ISSUE A PROCLAMATION REQUIRING ALL PERSONS, WHO ARE CAPABLE, TO DISCOVER ALL FALSE AND UNLAWFUL TRADERS WITH THE FRENCH AND INDIAN ENEMY, AND THE GOODS IMPORTED BY SUCH TRADERS.

Ordered — That His Excellency the Governour, be Desired forthwith to Issue out a Proclamation, Strictly requiring all Persons, that are capable, to Detect, & make Discovery, of all false and unlawfull Traders with the French, and Indian Enemy which they are capable of: and all such Goods, that have been Imported, as the Effects of such Trade. [*Passed June 21.*]

* Vol. VI., number 18, and see resolve, 1705-6, chapter 70.

CHAPTER 21.

ORDER FOR ALLOWING AND PAYING THIRTEEN POUNDS AND TEN SHILLINGS OUT OF THE PROVINCE TREASURY TO MATTHEW PERKINS FOR HIS FEES AND EXPENSES IN PROSECUTING MAJOR JOHN CUTLER BEFORE A COURT-MARTIAL AT NEWBURY IN THE YEAR 1703.

UPON READING the petition of Matthew Perkins of Ipswich, on behalf of himself and several soldiers that attended a court-martial held at Newbury, *anno* 1703, as witnesses against Major John Cutler for mismanagm^t in the service, etc.,—

Ordered That the s^d Petitioner Mathew Perkins be allowed & Paid out of the publick Treasury, his charges amounting unto Thirteen Pounds, & ten shillings, in regard, more than that was stop't out of s^d Cutlers wages, by the s^d Court where the Tryall was at Newberry, where s^d Perkins &c^a were summoned to attend Her maj^{ties} service in that behalfe. [*Approved June 26.*]

CHAPTER 22.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS OUT OF THE PROVINCE TREASURY AS A GRATUITY TO MAJOR WILLIAM WHITING FOR CONDUCTING THE FORCES OF CONNECTICUT COLONY IN DEFENCE OF THE WESTERN FRONTIERS, ETC.

THE FOLLOWING RESOLVE pass'd upon the petition of Major William Whiting, read on Tuesday last, praying payment of forty pounds claimed by him as a debt from this province; viz.,—

Resolved, notwithstanding the said sum is no debt due from this province, yet considering the good services the petitioner has done in conducting the forces of Connecticut Colony for the defence of the western towns of this province, that the said sum of forty pounds be allowed and paid out of the publick treasury to Major William Whiting, the petitioner. [*Approved June 27.*]

CHAPTER 23.

ORDER DIRECTING THE PROVINCE TREASURER TO GIVE TO FRANCIS ADAMS, CONSTABLE OF PLYMOUTH, A GENUINE TWENTY-SHILLING BILL OF PUBLIC CREDIT IN EXCHANGE FOR A COUNTERFEIT BILL OF THE SAME AMOUNT. -

Ordered, That the treasurer be directed to receive the counterfeit bill of credit of twenty shillings hereunto annexed, and deliver to Francis Adams, constable of Plimouth, a true bill in lieu thereof. [*Approved June 27.*]

CHAPTER 24.

VOTE FOR APPROVING AND ALLOWING THE PROVINCE TREASURER'S ACCOUNTS FROM MAY 31, 1705, TO MAY 31, 1706.

THE ACCOMPTS of James Taylour, gent., treasurer and receiver-gen^l of this province, beginning the 31st of May, 1705, and continued unto the 31st day of May, 1706, amounting unto the sum of forty-one thousand seven hundred and sixteen pounds five shillings and eleven pence, having been presented and laid before the house of represent^{ves} and inspected by said house, by which it appears there was standing out on the said thirty-first day of May, 1706, of the sev^l assessments, eight thous^d four hundred forty-nine pounds one shilling and fivepence; as also of the duties of impost, as by accompt received from John Walle, Esq^r, late commissioner, sixty pounds; and in the hands of James Russell, Esq^r, commiss^r for impost, powder, the value of two hundred forty-six pounds eighteen shillings; to be drawn into the treasury and further to be accounted for, —

Voted, That the said accompts, in the sev^l articles of receipts and payments therein mentioned, amounting to the sum of thirty-two thousand nine hundred and sixty pounds six shillings and sixpence, be and hereby are approved and allowed of; and the said treasurer is hereby discharged of the said sum of thirty-two thousand nine hundred and sixty pounds six shillings and sevenpence. [*Approved June 29.*]

CHAPTER 25.

ORDER FOR COLLECTING, PRINTING AND DISTRIBUTING THE LAWS RELATING TO THE DUTIES OF TITHINGMEN, FOR THE USE OF PERSONS CHOSEN TO THAT OFFICE.

WHEREAS many chosen to the Office of Tythingmen, are not furnished with Law Books, whereby to be Informed of the Duty, of their Office, which is Contained in Sundry Acts.

Ordered—That the Duty of the Said Office, be carefully Collected, out of the Severall Acts, which Contain it, and the said Collection be Imprinted, and a proper number of the Copies thereof be Lodg'd with the Town Clerk, in each Town, to be Delivered, with the staffe, to the Persons that shall from time to time be chosen to, and Serve in, the S^d Office. [*Approved July 2.*]

CHAPTER 26.

RESOLVE FOR PURCHASING, FOR THE USE OF THE PROVINCE, AS MUCH SALTPETRE AS CAN BE BOUGHT FOR ONE HUNDRED POUNDS STERLING; ALSO FOR PURCHASING A PROPORTIONABLE QUANTITY OF SULPHUR.

Resolved—That His Excellency & Council, be Desired, to Take Care by the first opportunity, to Send for as much Salt Petre, as can

be Purchased for One Hundred Pounds Sterl: which Shall be Paid for, out of the publick Treasury, for the use of the Province; & a Suitable Proportion of Sulphur, where it can be most reasonably had. [*Approved July 2.*]

CHAPTER 27.

ORDER FOR ACCEPTING THE REPORT OF THE COMMITTEE APPOINTED TO PROVIDE A SUITABLE PLACE IN WHICH TO STORE GUN-POWDER IN BOSTON, FOR DISPOSING OF THE SAME ACCORDINGLY, AND FOR BUILDING A POWDER-HOUSE, ETC.

WE THE COMMITTEE appointed by order of Court, are of opinion that it is Convenient to have the powder, now in Town, secured at the Sconse near Fort Hill, M^r Copps Brick house at the North End, and at M^r Russells Brick Warehouse in Charlestown till such time as other provision can be made, And that we apprehend a Convenient house may be built upon the brow of the Hill at the Northwestside of the Common or Training field in Boston, Which building to be made of Brick & well arched will Cost as we judge four hundred pounds—

ELISHA HUTCHINSON

pro ord^r of the Comitte

Ordered—That this Report be Accepted, That the Powder be Disposed off in the places abovementioned, in Such Proportion, as His Excellency the Govern^r with advice of the Councill shall Direct, That an Act of this Court, be made, That a Powder House, be forthwith Built in Boston-Common, aboves^d at the publick Charge, upon the same Terms, & under the Same Rules mentioned, in an order of this Court made in nov^r 1702.

That Elisha Hutchinson Esq^r L^t Col^o Sam^l Checkley, & Capt: Nathaniel Carey, be a Comitte to Take care for the Erecting of the same.

And That a Sum not exceeding four Hundred Pounds, be Paid out of the Publick Treasury for the s^d service. [*Approved July 2.*]

CHAPTER 28.

ORDER DIRECTING THAT THE ADVERSE PARTY BE SERVED WITH A COPY OF THE PETITION AND REMONSTRANCE OF JAMES ALLEN, SURVIVING FEOFFEE IN TRUST, AND EXECUTOR, UNDER AN INSTRUMENT PURPORTING TO BE THE LAST WILL OF RICHARD BELLINGHAM, DECEASED, TO SHOW CAUSE, ETC., WHY A HEARING THEREON SHOULD NOT BE GRANTED.*

A REMONSTRANCE AND PETITION of James Allen, clerk, surviving feoffee in trust and executor of the last will and testament of Richard Bellingham, Esq^r, dec^d, praying to be heard as to the matters of law referring to a judgem^t given by a former gen^l court in the year 1676, declaring the said will null and void, sent up from the representatives with the order of that house for a hearing thereon at the next

* See vote, 1704-5, chapter 116.

session of this court, were read and the following vote pass'd thereon ; viz., before the council proceed to consider the above vote of the represent^{ves.},—

Ordered, That the adverse party be served with a copy of the petition, to shew cause, if any have, why a hearing should not be granted. [*Concurred in by the House, and passed July 4.*]

CHAPTER 29.

ORDER ON THE PETITION, PRAYING TO BE MADE A TOWNSHIP, OF SEVERAL OF THE INHABITANTS OF THE EAST PART OF THE TOWN OF BRIDGEWATER, AND THE PROPRIETORS OF A TRACT OF LAND BETWEEN THE TOWNS OF WEYMOUTH, HINGHAM, SCITUATE AND BRIDGEWATER, DIRECTING THAT A PLAN OF SAID TERRITORY BE EXHIBITED TO THE GENERAL COURT AT THEIR NEXT SESSION. [*Approved July 4.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 30.

ORDER DIRECTING CAPTAIN EBENEZER COFFIN TO RECOGNIZE BEFORE THE JUDGES OF THE SUPERIOR COURT IN THE SUM OF TWO HUNDRED AND FIFTY POUNDS, AND TO GIVE SURETIES IN TWO HUNDRED AND FIFTY POUNDS MORE TO ATTEND THE GENERAL COURT DURING THE PRESENT SESSION TO ANSWER ALL CHARGES AGAINST HIM IN REGARD TO HIS TRADING WITH THE ENEMY.

Ordered—That Captⁿ Ebenezar Coffin. Recognize, before the Judges of the Super^r Court, in the sum of Two Hundred & fifty, Pounds, & Sureties for Two Hundred & fifty Pounds more. to Attend this Court, & each House thereof, during this present Session, to answer to Such matters, & things, as shall be objected on Her Maj^{ties} behalfe, against him, referring to his Trading with the french, or Indian Enemy. [*Approved July 4.*]

CHAPTER 31.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED AND TWENTY-FIVE POUNDS TO JAMES TAYLOR, TREASURER OF THE PROVINCE, FOR HIS SERVICES DURING THE YEAR 1705-6.

Resolved, That the sum of two hundred twenty and five pounds be allowed and paid out of the publick treasury to M^r James Taylour, treasurer of this province, for his service in the said office the year past. [*Approved July 5.*]

CHAPTER 32.

ORDER APPOINTING A HEARING AT THE NEXT SESSION OF THE GENERAL COURT UPON THE MEMORIAL OF JOHN LEVERETT, RESPECTING THE ENCROACHMENTS ON THE INDIAN PLANTATION OF PUNCAPOAG, ETC., AND FOR SUSPENDING PROCEEDINGS AGAINST THE INTRUDERS, IN THE MEAN TIME. [*Approved July 5.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 33.

RESOLVE FOR ALLOWING AND PAYING FORTY-THREE POUNDS FOURTEEN SHILLINGS AND FIVEPENCE OUT OF THE PROVINCE TREASURY TO JAMES RUSSELL, TO BE BY HIM PAID TO THE COMMITTEE INSTRUCTED JUNE 30, 1705, TO SUPERINTEND THE PRINTING OF THE LAST FIVE THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT.

AN ACCOMPT of James Russell, Esq^r, in behalf of the committee, charges for imprinting the last five thousand pounds in bills, was sent up from the represent^{res} with the resolve of that house thereon; viz., —

Resolved — That the Sum of Forty three Pounds, fourteen Shillings, & five pence, be Allowed, and Paid, out of the publick Treasury to James Russell Esq^r to be by him paid to the persons abovementioned as due. [*Concurred in by the Council, and approved July 6.*]

CHAPTER 34.

RESOLVE FOR ALLOWING THREE POUNDS TO BEN INDIAN OF SCITUATE, FOR HIS SUFFERINGS FROM WOUNDS RECEIVED IN THE QUEEN'S SERVICE; AND FOR EMPLOYING HIM AS A PRIVATE SENTINEL, OR FOR PAYING HIM FORTY SHILLINGS PER ANNUM FOR TWO YEARS IF HE PREFER IT, THE SELECTMEN OF THE SAID TOWN TO RECEIVE THE MONEY AND EXPEND THE SAME FOR HIS BENEFIT.

A PETITION of Ben Indian of Scituate, setting forth that he was wounded in her majestie's service, and lost the use of his hand by a shot, was sent up from the represent^{res} with the order pass'd by that house thereon; viz., —

Resolved — That the Petitioner be Allowed Three pounds, for Smart money, also that he be Improved in the Service as a private sentinell, & have the wages allowed, to one in that Post, if he cannot provide better for his Support, which Service if he does not Take up with, that he be allowed forty shillings ^p annum, for the two next years, and that all allowed be put into the hands of the select men of the Town of Sittuate, to be Laid out for him, according, as they shall Judge best for his Supply & Support [*Concurred in by the Council, and approved July 8.*]

CHAPTER 35.

ORDER DIRECTING THE PROVINCE TREASURER TO EXCHANGE WITH NEHEMIAH JEWETT, FOR TWO UNENDORSED BILLS OF CREDIT ON THE LATE COLONY OF THE MASSACHUSETTS BAY, AMOUNTING IN ALL TO SEVEN SHILLINGS, THE LIKE SUM IN BILLS OF CREDIT OF THE PROVINCE.

Ordered—That the Treasurer be Directed to Receive of M^r Nehemiah Jewett, Two Bills of Credit on the late Colony of the Massachusetts Bay, one of five shillings, the other of Two shillings, which are not Indorsed, & Deliver to him two Bills of Credit on this Province of the like value, for the same. [*Approved July 9.*]

CHAPTER 36.

RESOLVE FOR EMITTING TEN THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT, AND FOR GRANTING A TAX OF TEN THOUSAND POUNDS [*Approved July 9.*]

[*Printed in the notes to the acts of the year 1706-7.*]

CHAPTER 37.

ORDER DIRECTING THE PROVINCE TREASURER TO EXCHANGE WITH WILLIAM DENISON, FOR THREE UNENDORSED BILLS OF CREDIT ON THE LATE COLONY OF MASSACHUSETTS BAY, AMOUNTING IN ALL TO NINE SHILLINGS AND SIXPENCE, THE LIKE SUM IN BILLS OF CREDIT OF THE PROVINCE.

Ordered—That the Treasurer be Directed to Receive, of M^r William Denison three Bills of Credit on the late Colony of the Massachusetts Bay, which are not Indors'd, amounting to the Sum of nine Shillings & Six pence, and Pay unto him, the like Sum in the Bills of Credit on this Province. [*Approved July 10.*]

CHAPTER 38.

VOTE* FOR REQUESTING THE GOVERNOR TO ISSUE A PROCLAMATION FOR THE ARREST OF JOHN PHILLIPS, JUNIOR, OF CHARLESTOWN, CHARGED WITH CARRYING ON ILLICIT TRADE WITH THE ENEMY.

UPON A MESSAGE from the represent^{ves}. that his excellency would please to issue a proclamation against John Phillips, jun^r, of Charles-

* The vote of the House communicated by message to the Governor and Council having been approved, and the proclamation asked for, issued, is treated here as of equal force with any concurrent proceeding.

town, mariner, being accused by that house of traiterously holding a false and illegal trade with her majesty's enemies, the French and the Indian rebels, and absconds himself, —

And his exey., with the advice of the council, issued a proclamation accordingly, requiring the said Phillips to render himself, and all sheriffs, etc., to seize and apprehend him. [*Passed July 10.*]

CHAPTER 39.

RESOLVE DIRECTING THE JUSTICES OF THE SUPERIOR COURT TO EXAMINE INTO THE MATTER OF THE PETITION OF JOSEPH PARKER OF GROTON, PRAYING THAT HE MAY BE REPAID OUT OF THE REAL ESTATE OF RICHARD BLOOD, DECEASED, INTESTATE, HIS CHARGE FOR SUPPORTING THE WIDOW OF SAID DECEASED, AND TO REPORT THEREON AT THE NEXT SESSION OF THE GENERAL COURT.

A PETITION of Joseph Parker of Groton, praying recompence for his charge in supporting his wife's mother, the widow of Rich^d. Blood, of the said town, dec^d., out of the lands of her said husband, was read, with the order pass'd thereon by the house of representatives, granting the lands of the said Richard Blood to the said Joseph Parker, his heirs and assigns, forever; w^{ch}. order, being put to the vote, was not agreed to, but, —

Resolved, That the Justices of the Superiour Court at their next Session in the County of Midd^x Summon all persons concern'd to appear before them, and to Examⁱn into the matter of this Petition and Report the same to this Court at their next Session. . [*Concurred in by the House, and approved July 12.*]

CHAPTER 40.

VOTE APPOINTING A HEARING AT THE NEXT SESSION OF THE GENERAL COURT UPON THE PETITION OF CAPTAIN JONATHAN DANFORTH AND LIEUTENANT JOHN STEARNS, AGENTS FOR THE PROPRIETORS, ETC., OF SHAWSHINE, NOW BILLERICA, PRAYING FOR A REPEAL OF THE ORDER OF 1705-6, CHAPTER 30, AND DIRECTING THAT THE PARTIES BE NOTIFIED THEREOF, ETC. [*Approved July 12.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 41.

VOTE FOR PAYING OUT OF THE PROVINCE TREASURY FORTY SHILLINGS PER MONTH TO MATTHEW CAREY, FOR FOUR MONTHS' SERVICE AS WAITER TO THE IMPOST OFFICE, AND MORE, IF FOUND TO BE DUE; SAID PAYMENTS TO BE MADE TO JAMES RUSSELL, FOR THE USE OF SAID CAREY.

Voted a concurrence with the representatives, that Matthew Carey, waiter to the impost office, be paid out of the publick treasury for four

months' time, from the fifteenth day of March last past to the fifteenth day of this instant, July, at forty shillings per month, and if James Russell, Esq^r, upon examination of his account, find any more due, making report thereof to the governour and council, it shall be ordered, after the same rate; and the said paym^{ts}. to be made to James Russell, Esq^r, for the use of the said Carey. [*Approved July 12.*]

CHAPTER 42.

ORDER FOR REMITTING THE DUTY OF TONNAGE OR POWDER-MONEY, ON THE SHIP DUCHESS, FROM JAMAICA, NATHANIEL VIAL, MASTER AND PART OWNER, CONDEMNED AND BROKEN UP IN BOSTON, ETC.

A VOTE pass'd in the house of representatives upon the petition of Nathaniel Vyal, late master of the ship Dutchess, from Jamaica, condemn'd and broken up in the port of Boston, for remitting the tunnage or powder duty, and order to be given accordingly, —

Ordered That the Praier of this Petition be Granted [*Concurred in by the Council, and approved July 12.*]

CHAPTER 43.

ORDER FOR ABATING THE DUTY OF TONNAGE OF THE SHIP WILLIAM AND MARY, GALLEY, FROM VIRGINIA, JOHN PENROSE, MASTER, ARRIVING IN BALLAST, AND BROKEN UP IN THE PORT OF BOSTON.

Upon the petition of Lewis Boucher of Boston, merch^t, praying the abatem^t of the duty of tunnage of the ship William and Mary, John Penrose, master, coming from Virginia in her ballast to the port of Boston, and there condemned and broken up, and that the impost officer may be directed not to make any further demand thereof, —

Ordered that the Prayer of the Petition be Granted [*Approved July 12.*]

CHAPTER 44.

ORDER FOR ASSESSING UPON THE INHABITANTS OF THE TOWN OF DEERFIELD A SUM SUFFICIENT TO PAY FOR THE BOARD, FOR THE PREVIOUS YEAR, OF THEIR MINISTER, BENJAMIN CHOAT, AND FOR PAYING HIM OUT OF THE PROVINCE TREASURY THE SUM OF TWENTY POUNDS FOR THE CURRENT YEAR, BEGINNING NOVEMBER, 1705, IN ADDITION TO THE TWENTY POUNDS ALREADY GRANTED.

THE FOLLOWING ORDER pass'd by the represent^{ves}. on the petition of M^r. Benjamin Choat, minister of Deerfield; viz., —

Ordered —, That the Select men, or Trustees of Deerfield, or the Justices of Quarter sessions, for want of such Shall appoint Persons,

forthwith to Assesse Such a sum upon the Inhabitants, and make Payment thereof to the Said M^r Choat, or his order, as shall Discharge his Diet the last year: And That Twenty Pounds more be paid him out of the Province Treasury, as a further & full Recompence, for his Labours, with them in the work of the ministry the year currant, beginning the 7th day of November last, over and above the Twenty Pounds, Granted for the Support of the Ministry in the s^d Town of Deerfield. [*Concurred in by the Council, and approved July 13.*]

CHAPTER 45.

VOTE FOR PROCEEDING BY BILL OF ATTAINDER, AGAINST WILLIAM ROUS, SAMUEL VETCH, JOHN BORLAND, ROGER LAWSON, EBENEZER COFFIN, AND JOHN PHILLIPS, JUNIOR, CHARGED WITH CARRYING ON ILLICIT TRADE WITH THE ENEMY.*

12th July. 1706.

In Council.

The Representatives haveing Offered a Proposal to the Consideration of the Board, In the words following. That is to say.

WHEREAS William Rouse Samuel Vetch, John Borland, Roger Lawson & Ebenezar Coffin are under Restraint, or Confinement in Boston, by Order of the said House, for illegal Trading & Selling to and Supplying of the French and Indians at Port Royal and other places in possession of the French Kings Subjects, there Inhabiting, the open and Declared Enemies of Her Majesties Government & Liege People in this Province, which is a high Misdemeanour and greatly to the damage & hurt of Her Maj^{ties} Government and Liege People. The afores^d persons being by this House Impeached for the same.

It is Proposed to the Consideration of his Excellency the Governo^r & Council That the said persons & every of them, be closely confined and Secured In order to their being brought to a Tryal before this Great and General Court or Assembly at their next Session.

The Council haveing had mature Consideration of the afore-recited Proposal made by the House of Representatives, And the great Importance singularity and Difficulty of the matters therein referr'd to; As also, of what absolute necessity it is, That all possible Methods be taken to prevent such illegal Trade to the Support of the Rebels, and french & Indian Enemy. and hurt and damage of the Province, by an exemplary punishment of the Offenders, and restraint of all others.

withal Considering, That the Facts alledged against them were committed far distant from the Seat of the Government and without the body of any of the Countys where Her Majesties Justices of the Superiour Court of Judicature are appointed to Sit.

And whereas the said John Borland, Samuel Vetch, Roger Lawson, William Rouse and Ebenezar Coffin, by their humble Petition, have entirely Submitted themselves to the Justice of this Honorable Court. Likewise duely Considering the Clause in the Royal Charter or Letters Patents for Incorporating of this Her Majesties Province. Impowring the Great and General Court or Assembly to Impose Fines, Mulets, Imprisonments and other punishments; The Council are of Opinion and do accordingly agree, in this Case, to proceed to a further Inquiry and

* A private act was passed the same day, for the commitment of the accused to Boston jail without bail, etc.

Examination of the s^d Crimes, charged upon the p^{ersons} afor^sd by Bill of attainder in the next sessions of the General Assembly.

Sent down for concurrence.

Is^d ADDINGTON *Sec^{ry}*.

In the House of Representatives

July 12 : Read

13 : Read & voted a Concurrence. And Considering That John Phillips jun^r of Charlestown imprisoned yesterday for the like crimes chargd on the above mentioned Prisoners, having also intirely submitted himself to the Justice of this Hon^{ble} Court.

Ordered That the Proceedings with the s^d Phillips be in the same manner, with the s^d Prisoners so far as is above agreed.

THOMAS OAKES *Speak^r*

In Council. July. 13th 1706. Read and agreed to.

Is^d ADDINGTON *Sec^{ry}*—

[*Approved July 13.*

CHAPTER 46.

RESOLVE FOR ALLOWING AND PAYING THREE HUNDRED POUNDS TO JOSEPH DUDLEY FOR HIS SERVICES AS GOVERNOR, ETC.

Resolved, That the sum of three hundred pounds be allowed and paid out of the publick treasury to his excellency Joseph Dudley, Esq^r, captain-general and governour-in-chief of this her majestie's province, for his support in managing the affairs of the government.
[*Approved July 13.*

CHAPTER 47.

RESOLVE FOR ALLOWING AND PAYING SEVENTY POUNDS TO JAMES RUSSELL FOR HIS SERVICES AS COMMISSIONER OF THE IMPOST DURING THE YEAR 1705-6.

Resolved, That the sum of seventy pounds be allow'd and paid out of the publick treasury to James Russell, Esq^r, commissioner of impost, for his service the year past. [*Approved July 13.*

CHAPTER 48.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS, EACH, TO SAMUEL SEWALL, JOHN HATHORNE, JOHN WALLEY AND JOHN LEVERETT, JUSTICES OF THE SUPERIOR COURT, ETC., FOR THEIR SERVICES FOR THE YEAR ENDING JULY 10, 1706.

Resolved, That there be allowed and paid out of the publick treasury to the Hon^{ble} Samuel Sewall, John Hathorne, John Walley and John Leverett, Esq^{rs}, judges of the superiour court of judicature, to each of them the sum of forty pounds, for their service the year past, expiring the tenth instant. [*Approved July 13.*

CHAPTER 49.

RESOLVE FOR ALLOWING AND PAYING FIFTEEN POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, ON ACCOUNT OF HIS SERVICES DURING THE CURRENT YEAR.

Resolved, That the sum of fifteen pounds be allow'd and paid out of the publick treasury to M^r John White, clerk of this house, in part for his service the year curr^t. [*Approved July 13.*]

CHAPTER 50.

RESOLVE FOR ALLOWING AND PAYING THIRTY POUNDS TO JAMES MAXWELL FOR HIS SERVICES AS DOORKEEPER TO THE GOVERNOR AND GENERAL COURT, FOR THE YEAR ENDING JUNE 8, 1706.

Resolved, That the sum of thirty pounds be allow'd and paid out of the publick treasury to M^r James Maxwell, doorkeeper to his ex^{cy}. the govern^r and this court, for his service the year past, ending the eighth day of the last month. [*Approved July 13.*]

CHAPTER 51.

ORDER APPOINTING A COMMITTEE OF THE HOUSE TO JOIN WITH THE ATTORNEY-GENERAL IN DRAWING UP BILLS OF ATTAINDER OF HIGH CRIMES AND MISDEMEANOR AGAINST JOHN BORLAND, SAMUEL VETCH, ROGER LAWSON, WILLIAM ROUS, EBENEZER COFFIN AND JOHN PHILLIPS, JUNIOR.

WHEREAS both Houses of this Court have agreed that John Borland Sam^l Vetch, Roger Lawson, William Rouse Ebeneze^r Coffin, & John Phillips jun^r Shall be Proceeded against upon Attainder of high Crime & misdemeanour at the next session of this Court.

Ordered That M^r Nehemiah Jewet, Sam^l Eels Esq^r M^r Nathan^l Blagrove M^r Benj^a Lynde & Col^o Sam^l Checkley or any three of them be a Comitte^e to Joine with the Attourney Gener^l to Draw up the attainder accordingly, to set the next week, and any other time between the Sessions, M^r Jewet to be chairman and appoint time & place of Sitting, and that the secretary & Clerk of this House Lay before them the Papers & Evidences. relating to the s^d affair, that no time be lost in the Proceeding at the opening of the next session. [*Approved July 13.*]

CHAPTER 52.

ORDER FOR APPOINTING A COMMITTEE TO PREPARE THE DRAUGHT OF AN ADDRESS TO THE QUEEN, REPRESENTING THE PRESENT STATE OF THE WAR AND THE AFFAIRS OF THE PROVINCE, AND PRAYING FOR A CONTINUANCE OF HER PROTECTION AND A FURTHER SUPPLY OF ARMS AND AMMUNITION.

In Council. — July. 13th 1706.

Ordered That an humble Adresse be made by this Court, unto Her Majesty, to give Her Majesty an Accompt of the present State of the War, and other affairs of the Govern^t and humbly to pray Her Maj^{ties} Favour in Continuing Her Protection & Granting a Supply of Fire armes and ammunition to this Her Province.

And That Elisha Hutchinson & John Leverett Esq^r with the Secretary be a Committee to joyne wth such as shall be named by the Representatives to prepare the s^d Adresse to be Signed by the Secretary & the Speaker.

Sent down for concurrence./

ISA ADDINGTON *Secry.*

In the House of Representatives July 13: 1706.

Ordered That M^r Speaker, M^r Denison Capt: Savage, & Capt: Carey be a Com^{tee} to Joine with the Com^{tee} of the Board, to Prepare a Draught of an adresse as on the other side, to lay before this Court at their next Session.

THOMAS OAKES *Speak^r*

[*Passed July 13.*

CHAPTER 53.

ORDER* REFERRING TO THE NEXT SESSION OF THE GENERAL COURT THE PETITIONS OF FAITH WALDO, ABIGAIL WATKINS, SUSANNAH AMSDEN AND THE CASE OF SAMUEL LILLIE.

Ordered, That the petitions of Faith Waldoe and Abigail Watkies and Susannah Amsden, widows, and the case of Samuel Lillie, be refer'd to the next session of this court. [*Passed July 13.*

* This order is taken from the record, but nothing has been found in the archives to show that such an order was passed upon the petitions of Waldo and Watkins. That Lillie's case came up in the House on the 29th of November, 1706, and that the petition of Amsden was considered in the Council on the 19th of the same month, appear by memoranda in the archives, and this is deemed sufficient confirmation of the record, which was probably made up by the Secretary without any other data than his personal recollections of the fact.

VOTES, ORDERS AND RESOLVES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SEVENTH DAY OF AUGUST, A.D. 1706.

CHAPTER 54.

VOTE ADVISING THE GOVERNOR TO DECLINE THE PROPOSALS OFFERED BY MONSIEUR VAUDREUIL, GOVERNOR OF CANADA, FOR THE EXCHANGE OF PRISONERS, AND RECOMMENDING THAT ALL THE FRENCH PRISONERS BE SENT TO PORT ROYAL AND QUEBEC, AND THAT THE ENGLISH PRISONERS IN CANADA BE DEMANDED IN RETURN, ETC.

UPON CONSIDERATION of the proposals offered by Mons^r. Vaudreuil, govern^r of Canada, for the restitution of prison^{rs}. on each side, the council are of opinion, and do advise, that his excellency refuse the said articles, and yet send away the French prisoners, without exception, to Port Royal and Quebeck, and demand the English prisoners of both the French governours in return of theirs; and that a suitable vessel be forthwith sent to Quebeck for our prisoners, in hopes of seeing them before winter: and his excellency is desired to have three or four of the principal of them go on their parol, to return in case ours be not sent. [*Concurred in by the House, and passed August 8.*]

CHAPTER 55.

ORDER APPOINTING A HEARING UPON THE PETITION OF JOSEPH WELD AND OTHERS, INHABITANTS OF THE WESTERLY PART OF THE TOWN OF ROXBURY, PRAYING TO BE SET OFF AS A SEPARATE PRECINCT, AND FOR NOTIFYING THE SELECTMEN OF SAID TOWN, ETC. [*Approved August 8.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 56.

ORDER APPOINTING A COMMITTEE TO PROCURE A SUITABLE VESSEL TO BRING CAPTIVES FROM CANADA.

Ordered, That Cpt. Ephraim Savage and Cpt. Nath^l. Carey be a committee to join with the commissary-general to take up and agree for, at the best rate they can, a suitable vessel to proceed to Canada to fetch our captives home. [*Passed August 12.*]

CHAPTER 57.

VOTE ACCEPTING THE REPORT OF THE COMMITTEE APPOINTED TO PROCURE A SUITABLE VESSEL TO DESPATCH TO CANADA TO BRING BACK PRISONERS, AND ORDERING THAT THE BRIGANTINE HOPE, THE VESSEL SELECTED BY THE COMMITTEE, SET OUT IMMEDIATELY, ETC.

IN OBSERVANCE of the Order of the Gen^l Assembly ffor the taking up a Sutable Uessell to Send to Quebeck for to bring home the English Prisoners we the Subscribers haue Treated with Cap^t Benjmen Alford to hyre his Brigentene Hope burthen about Eaigthy Ton latly Ransomed out of the hands of the ffrench And brought into this port, which s^d Brigentene we Judge verry Sutable for the p'sent Occasion And we haue Accordingly Agreed with s^d Alford After the rate of Thirty pounds p m^o Dureing the Tyme shee shall be in the Publique Service And the Province to make good the Uallew shee shall be Aprised at in case shee shuld be taken by the Enemy, the Daeng's of the Sease to be run by s^d Alford, Dated in Boston this 13th Aug^t 1706

AND^s BELCHER
EPHRAIM SAVAGE
NATH^l CARY

The aboue Agreement I doe accept.

BENJ^t ALFORD

In Council. — Aug^t 13th 1706⁷./

Read and accepted, And Directed That the said Vessell be forthwth set out.* [*Concurred in by the House, and approved August 13.*]

CHAPTER 58.

VOTE ACCEPTING THE OPINION OF JOHN WALLEY AND JOHN LEVERETT, TWO OF THE JUSTICES OF THE SUPERIOR COURT, ETC., THAT THE ARTICLES OF IMPEACHMENT OF HIGH MISDEMEANOR PREPARED BY THE COMMITTEE APPOINTED TO DRAW UP BILLS OF ATTAINDER AGAINST JOHN BORLAND, SAMUEL VETCH, ROGER LAWSON, WILLIAM ROUS, EBENEZER COFFIN AND JOHN PHILLIPS, JR., BE GIVEN TO EACH OF THE ACCUSED, THAT THEY BE NOTIFIED TO BE READY FOR TRIAL BEFORE THE WHOLE GENERAL COURT; AND THAT THEREAFTER A BILL BE BROUGHT IN FOR THEIR ACQUITTAL OR PUNISHMENT; AND THAT THE ATTORNEY-GENERAL BE DIRECTED TO SIGN THE ARTICLES OF IMPEACHMENT.

13th August. 1706⁷ In Council.

Voted, That the Judges attended with the Attourney General do forthwith Consider and Advise what Steps are next to be taken with reference to the further Process ag^t the Prisoners. —

* The House concurred, but with a rider, to the effect that John Leverett be requested to act as commissioner for the proposed expedition, and reciting that "Major Sewall declines," etc. The Council did not agree to this, but, "on consideration of the several offices sustaiⁿd by Mr. Leverett in the Government," expressed the opinion that his services could not be spared. This disagreement seems not to have affected the main vote, which was acted upon, and the Hope was hired accordingly, and Capt. John Bonner was employed as master. See chapter 63, *post*. Samuel Appleton was finally agreed upon as commissioner. See chapter 62, *post*.

14th aug^t 1706. The Judges are of Opinion That a Copy of the Articles of High misdemeanour prepared by the Committee, be given to Each of the Prisoners forthwith, and that they have warning of a Tryal too morrow morning, And that the Hearing be before the whole Court together, And thereafter a bill be brought in for their Acquittal or Punishm^t And that M^r Attourney be Directed to Signe the Articles.

JOHN WALLEY

J. LEVERETT.

Read and accepted. [*Concurred in by the House, and passed August 14.*]

CHAPTER 59.

RESOLVE FOR ALLOWING AND PAYING EIGHTY-EIGHT POUNDS OUT OF THE PROVINCE TREASURY TO DAVID JEFFRIES, IN FULL FOR FIVE CANNONS IMPRESSED FOR HER MAJESTY'S SERVICE AT CASTLE WILLIAM, ETC.

UPON READING a petition of David Jefferies, merch^t, praying payment for five great guns of his, impress'd several years since for her majestie's service at Castle William, and still in service there, —

Resolved — That the Sum of Eighty Eight Pounds, be Allowed, and Paid out of the publick Treasury to the Petitioner, in full for the five Guns abovementioned [*Approved August 14.*]

CHAPTER 60.

RESOLVE FOR ALLOWING AND PAYING SIX POUNDS OUT OF THE PROVINCE TREASURY TO SIMON SINKAWAH, A NATICK INDIAN, BADLY FROZEN IN THE QUEEN'S SERVICE.

A VOTE pass'd in the house of representatives on the petition of Simon Synhawak, a Natick Indian, was sent up; viz., —

Resolved — That the Sum of Six Pounds be allowed, and Paid out of the publick Treasury as a full Consideration for the Petitioners being wounded, to Such Person, as His Excellency the Governour, & Councill Shall Appoint to receive it for the Petitioners use, to be Delivered out as Such Person shall Apprehend will be most beneficial to the Petitioner, and his family, if he have any. [*Concurred in by the Council, and approved August 14.*]

CHAPTER 61.

ORDER DIRECTING THE COMMISSARY-GENERAL TO DELIVER FOUR YARDS OF DUFFEL TO THE WIDOW OF JOSEPH ENGLISH, AN INDIAN KILLED IN THE QUEEN'S SERVICE.

Ordered — That the Comiss^y Generall Deliver four Yards, of Duffields to the widow of Joseph English, to make Blankets for her Self & her two children, & charge the Same to the Province in his accompts [*Approved August 15.**]

* By a clerical error this date was made July 15, in the archives.

CHAPTER 62.

VOTE FOR CONCURRING IN THE APPOINTMENT, BY THE GOVERNOR, OF SAMUEL APPLETON AS COMMISSIONER TO NEGOTIATE THE EXCHANGE OF PRISONERS AT QUEBEC.

THE GOVERNOR has Nominated To the Council, Samuel Apleton Esq To susteyn the service of Comissioner to M^r Voderil at Quebeck To their Vnanimouse satisfaction, & gives notice of the same to the House of Representatiues for their Concurrence [*Concurred in by the House, and approved August 15.*

CHAPTER 63.

VOTE FOR APPOINTING A COMMITTEE TO ENGAGE THE SERVICES OF CAPTAIN BONNER AS MASTER OF THE BRIGANTINE HOPE, ON HER VOYAGE TO QUEBEC; ETC.

CAPTAIN BONNER is willing to serve as master of The Brigantine to Quebeck if he may be rewarded accordingly M^r Benjamin Brown & m^r Commissary Belcher are appoynted with such of the representatives as they shall appoynt forthwith to agree & settle the matter that no time be lost/. [*Passed August 15.*

CHAPTER 64.

ORDER REFERRING TO THE NEXT SESSION OF THE GENERAL COURT THE SEVERAL HEARINGS APPOINTED TO BE ATTENDED THE PRESENT SESSION.

Ordered — that The Severall Hearings appointed, to be Attended this Session, be Attended, on the Second ffriday of the next Session, of this Court. [*Approved August 16.*

CHAPTER 65.

ORDER FOR PAYING EIGHT POUNDS ELEVEN SHILLINGS AND SIX-PENCE OUT OF THE PROVINCE TREASURY TO THE WIDOW OF JEREMIAH JORDAN, LATE OF BLACK POINT, FOR PORK PURCHASED OF SAID JORDAN FOR THE QUEEN'S SERVICE IN THE YEAR 1703.

Ordered — That the sum of Eight Pounds eleven Shillings, & Six pence be Paid out of the publick Treasry to the Widow of M^r Jeremiah Jordan for 1029 pounds of pork Capt: Willard had of her late husband p order of Authority, in the year 1703 [*Approved August 20.*

CHAPTER 66.

ORDER FOR ENABLING JOHN CALLEY, ATTORNEY TO NICHOLAS ANDREWS, TO ENTER A COMPLAINT IN THE NEXT SUPERIOR COURT OF JUDICATURE FOR THE COUNTY OF ESSEX, FOR AFFIRMATION OF A JUDGMENT RENDERED FOR THE PLAINTIFF IN A CASE IN THE INFERIOR COURT OF COMMON PLEAS FOR SAID COUNTY, IN WHICH SAID ANDREWS WAS PLAINTIFF AND PHILIP ENGLISH, DEFENDANT, ETC.

UPON READING the petition of John Cawley, attorney to Nicholas Andrews, praying to be enabled to take the benefit of a judgement which he recovered against Philip English in the inferiour court within the county of Essex in March last, from which the said English appeal'd, and, pending the appeal, the parties refer'd the matter to arbitration, w^{ch}. fail'd through the default of the said English, the court appeal'd to being past, —

Ordered That the Pet^r be Enabled to Enter his Complaint in the next Superiour Court of Judicature to be holden within the County of Essex for affirming the Judgem^t of the Inferio^r Court as the Law directs, And the Justices of the Superiour Court are Impowred, to receive the same and to do therein what to Justice appertains; notwithstanding the Court appealed to be past. . And that the adverse party be served with a Copy of this Order fourteen days before the Sitting of the s^d Superiour Court. — [*Approved August 20.*]

CHAPTER 67.

RESOLVE FOR FIXING THE PAY OF CAPTAIN SAMUEL APPLETON, APPOINTED TO GO TO CANADA TO BRING BACK THE ENGLISH PRISONERS, ETC.

Resolved That w^{as} Cap^t Sam^l Appleton Esq^r is Requestd & appoynted to Goe to Cannada wth a Vessell to demand & fetch y^e prisoners belonging to this prouince from thence: If sayd Gentlmaⁿ Returne to us before the next spring he shall receiue as a Compensation out of the prouince Treasury y^e Sum of Fifty pounds, & If by y^e prouidence of God he shall not Returne vntill after next spring he shall receiue y^e Sum of one Hundred pounds [*Approved August 21.*]

CHAPTER 68.

RESOLVE DECLARING SAMUEL VETCH, JOHN BORLAND, ROGER LAWSON, WILLIAM ROUS, EBENEZER COFFIN AND JOHN PHILLIPS, JUNIOR, GUILTY OF THE CHARGES OF HIGH MISDEMEANOR SEVERALLY EXHIBITED AGAINST THEM; ALSO THAT FURTHER PROCEEDINGS AGAINST THEM BE HAD BY BILL OR BILLS TO IMPOSE PUNISHMENT, ETC.

SAMUEL VETCH, John Borland, Roger Lawson, William Rouse, Ebenezer Coffin, & John Phillips jun^r having been openly heard in this

Court upon the Articles of High-Misdemeanour Severally Exhibited against them, And had their free Liberty, with assistance of Councill, to make their Defence; Upon due Consideration whereof and the Severall Evidences against them, with their Examinations, & Acknowledgments.

Resolved — That the S^d Samuel Vetch, John Borland, Roger Lawson, William Rouse, Ebenezer Coffin, & John Phillips, jun^r are guilty of the severall Articles Exhibited against them, respectively as to matter of fact, It being fully Prov'd against them.

And that further Proceeding be had by Bill, or Bills, for that End, to Impose meet Punishment, upon each of them, according to their respective Crimes [*Approved August 21.*]

CHAPTER 69.

RESOLVE FOR ALLOWING AND PAYING TWENTY-TWO POUNDS FOUR SHILLINGS AND ONE PENNY OUT OF THE PROVINCE TREASURY TO BENJAMIN ELIOT FOR PRINTING LAWS, ETC.

AN ACCOMPT of Benjamin Elliott, bookseller, for printing laws and other things for the publick, charge of paper, etc., amounting in the whole to twenty-two pounds four shillings and one peny, was sent up from the represent^{ves}. with the resolve of that house thereon; viz., —

Resolved — That the Sum of Twenty two Pounds, four Shillings, & one peny be Allowed, & Paid, out of the publick Treasury, to the within mentioned Benjamin Eliot, to Discharge the accompt on the other side [*Concurred in by the Council, and approved August 21.*]

CHAPTER 70.

VOTE FOR INSERTING A CLAUSE IN THE DRAUGHT OF THE ADDRESS TO THE QUEEN ASKING THAT A PACKET BOAT MAY BE REGULARLY RUN BETWEEN ENGLAND AND THIS PROVINCE.

UPON READING the petition of sundry gentlemen and merch^{ts}, praying that her majesty may be humbly address'd for the settling of packet boats to New England, —

Voted that it be a clause in the present address to her majesty that a packet boat May be established for these provinces. [*Passed August 26.*]

CHAPTER 71.

ORDER FOR ABATING THE DUTIES OF IMPOST UPON TAR, PITCH, ROSIN AND TURPENTINE DURING THE CURRENT YEAR.

WHEREAS there has bin of late considerable quantities of tarr pitch Rozin & Turpentine Imported from Sundry places out of this prouince; and more likely to come in this Year, y^e Commission^r for receiueing y^e

duties of Impost &c desires an ord^r of Court for his direction therein. from what places to demand it, and how much for Every town of y^e Respective Commodities; there being diuers p^{er}sons. own's & ffreighters ingaged to pay what y^e Hon^d Court Shall ord^r your Order and Advise herein is desired
Yo^r humble Seru^t

Boston Aug^t 15. 1706. @

JA : RUSSELL Commisn^r

In the House of Representatives

Aug : 16 : 1706, Read.

27 : Read & *Ordered* — That the Duties on the above-men-
tioned Co^modities be wholly abated, & Remitted

Sent up for Concurrence.

THOMAS OAKES *Speaker*

In Council y^e August. 27th 1706 y^e. Read and Concurr'd.

Is^a ADDINGTON *Sec^y* y^e.

[*Approved August 27.*

CHAPTER 72.

ORDER FOR ALLOWING AND PAYING OUT OF THE PROVINCE TREASURY TO BENJAMIN CHOAT, FOR HIS SERVICES IN THE MINISTRY AT THE TOWN OF DEERFIELD, AT THE RATE OF FORTY POUNDS PER ANNUM, THE TWENTY POUNDS ALREADY GRANTED TO BE ACCOUNTED PART THEREOF.

Ordered—That there be Allowed and Paid out of the Publick Treasury to M^r Benjamin Choat, after the Rate of forty Pound p^{er} annum, for the time he has Preach'd to the Town of Deerfield, the Twenty Pounds he has already received to be accounted part thereof. [*Approved August 31.*

CHAPTER 73.

ORDER FOR FIXING THE AMOUNT OF THE FINES, ETC., TO BE LAID ON CAPTAIN SAMUEL VETCH, JOHN BORLAND, ROGER LAWSON, CAPTAIN WILLIAM ROUS, JOHN PHILLIPS, JUNIOR, AND EBENEZER COFFIN, CONVICTED OF HIGH MISDEMEANOR.

UPON FURTHER CONSIDERATION. *Ordered* — That the Punishment of the Prisoners, be as follows viz!

That Captⁿ Samuel Vetch be fined the Sum of Two Hundred Pounds.

M^r John Borland, Eleven Hundred Pounds

Captⁿ Roger Lawson Three Hundred Pounds.

Captⁿ William Rouse Twelve Hundred Pounds, and be made un-
capable to sustain any Publick Office in this Province

M^r John Phillips One Hundred Pounds

Captⁿ Ebenezar Coffin Fifty Pounds And That All Stand Committed
untill their fines, are Paid [*Approved August 31.*

CHAPTER 74.

RESOLVE FOR ALLOWING AND PAYING FIFTY SHILLINGS OUT OF THE PROVINCE TREASURY TO CAPTAIN SETH ARNOLD, IN FULL DISCHARGE OF HIS EXPENSES, ETC., IN A JOURNEY TO PLYMOUTH TO SEIZE CONTRABAND GOODS OF TRADERS WITH THE ENEMY.

Resolved, That the sum of fifty shillings be allow'd and paid out of the publick treasury to Cpt. Seth Arnold, in full of his accompt of charges and expence in a journey to Plimouth, by order of his excellency the govern^r, etc., to seize any contraband goods of the illegal traders with the French and Indians. [*Approved September 2.*]

CHAPTER 75.

RESOLVE FOR ALLOWING AND PAYING ONE POUND AND THIRTEEN SHILLINGS OUT OF THE PROVINCE TREASURY TO RICHARD CHEEVER, IN FULL OF HIS ACCOUNT OF HORSE-HIRE, TIME AND EXPENSE IN A JOURNEY TO DRACUT TO SUMMON JOSEPH BUTTERFIELD, A WITNESS IN THE CASES OF HIGH MISDEMEANOR. ETC.

Resolved, That the sum of one pound and thirteen shillings be allowed and paid out of the publick treasury to M^r. Richard Cheever, to discharge his accompt of horse-hire, time and expences in a journey to Dracutt to summon Joseph Butterfield, and keeping of him from speech with other persons. [*Approved September 2.*]

CHAPTER 76.

RESOLVE FOR GRANTING ONE HUNDRED POUNDS IN ADDITION TO THE TWO HUNDRED POUNDS GRANTED NOVEMBER 17, 1704,* FOR ERECTING A FORT AT WINTER HARBOR IN PLACE OF THE FORT AT SACO, ETC.

Resolved — That the Sum of One Hundred Pounds, and no more be added to the Sum, of Two Hundred Pounds Granted Nov^r 17: 1704; for the Erecting of a ffort, at Winter-Harbour, in the room of that at Saco, The Garrison to be there kept, not to exceed the number, expressed in the Said Grant. [*Approved September 3.*]

* See resolve, 1704-5, chapter 75, and order, 1705-6, chapter 57.

CHAPTER 77.

ORDER REFERRING TO THE NEXT SESSION THE CONSIDERATION OF THE SUBJECT OF ENCROACHMENTS ON THE INDIAN PLANTATION AT PUNCAPOAG, THE OCCUPANTS NOT TO COMMIT WASTE IN THE MEAN TIME. [*Passed September 4.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 78.

RESOLVE FOR ALLOWING AND PAYING ELEVEN POUNDS AND TEN SHILLINGS, OUT OF THE PROVINCE TREASURY, TO CAPTAIN JOHN CALLEY, FOR HIS SERVICES AND EXPENSES IN SUMMONING AND KEEPING WITNESSES IN THE TRIALS OF PERSONS ACCUSED OF ILLEGALLY TRADING WITH THE ENEMY.

Resolved That the Sum of Eleven Pounds ten shillings, be Allowed and Paid out of the publick Treasury to Captⁿ John Cawley, for his Time, Trouble & Expences, in severall Journeys in Summoning, & subsisting sundry Evidences concerning the illegall Trade with the french & Indian Enemy. [*Approved September 4.*]

CHAPTER 79.

RESOLVE DIRECTING THAT SAMUEL VETCH, JOHN BORLAND, ROGER LAWSON, WILLIAM ROUS, EBENEZER COFFIN AND JOHN PHILLIPS, JUNIOR, EACH PAY FOURTEEN POUNDS FIVE SHILLINGS AND TENPENCE, AMOUNTING IN ALL TO EIGHTY-FIVE POUNDS AND FIFTEEN SHILLINGS, INTO THE PROVINCE TREASURY AS THE COST OF THEIR PROSECUTION.

PURSUANT TO Severall Acts of this Court Passd this Session for the Punishment of Samuel Vetch, John Borland, Roger Lawson, William Rouse, Ebenezer Coffin, and John Phillips jun^r for High Misdemeanour whereby they are Obligated to Pay the respective fines therein expressed, & Cost & charge of Prosecution.

Resolved — That Each, and every of the Persons aforementioned, Pay the sum of fourteen Pounds, five shillings & tenpence, as the Cost, and Charge, of their Prosecution, into Her Majesty's Treasury of this Province. the whole amounting to the Sum of Eighty five Pounds & fifteen Shillings. [*Approved September 4.*]

CHAPTER 80.

RESOLVE FOR ALLOWING EIGHTY-FIVE POUNDS AND FIFTEEN SHILLINGS TO THE OFFICERS AND WITNESSES ATTENDING THE TRIALS FOR HIGH MISDEMEANOR OF SAMUEL VETCH, JOHN BORLAND, ROGER LAWSON, WILLIAM ROUS, JOHN PHILLIPS, JUNIOR, AND EBENEZER COFFIN.

BILL OF COST, & Charges, in the Prosecution of Sam^l Vetch, John Borland, Roger Lawson, Will^m Rouse, John Phillips jun^r & Ebenezer Coffin Convicted of High-Misdemean^r for illegall Trade with the French and Indian Enemy. that is to Say.

To M ^r Sec ^{ry} Addington for his attendance & service in Drawing, & Engrossing the Acts	£ 12 0 0
To Paul Dudley Esq ^r Attorney Generall.	30 0 0
To John White Clerk of the Representatives for his extraordinary service	10 0 0
To M ^r Nehemiah Jewet one of the Com ^{tee} app ^l ed by this Court, in their recesses to prepare articles of attainder, his Service 7 daies & other Service	5 0 0
To Sam ^l Eels Esq ^r one of y ^e s ^d Com ^{tee} 6, daies	1 10 0
To Col ^l Sam ^l Checkley one of y ^e s ^d Com ^{tee} 6 daies	1 10 0
To M ^r Benj ^m Lynde one of y ^e s ^d Com ^{tee} 3 daies	15 0 0
To Sundry Evidences, their time & charge of Attendance viz ^t	
To Nicolas Merrit, William Blackler, Henry Darling, Michael Coomes, John Curtisse, Mark Hascall, Archibald Ferguson, Joseph Maudesly, & Mathew Pymar, to each of them 40/	18 0 0
To John Collins	2 10 0
To Charles Green	1 10 0
To Peter Pollo, Abraham Miller, & John Tucker each of them 20/	3 0 0
	<hr/> 85 15 0 <hr/>

Resolved That the above Sum of Eighty five Pounds, fifteen Shillings, be Allowed to the persons abovenamed, for their attendance, & Service in the Prosecution of the Prisoners, in proportion as abovementioned, this Court having Ordered the said Prisoners to Pay the like Sum of Eighty five Pounds, and fifteen Shillings, for Cost, & charge of their Prosecution. [*Approved September 4.*]

CHAPTER 81.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS TO PAUL DUDLEY, FOR HIS SERVICES AS ATTORNEY-GENERAL TO DATE.

Resolved That the Sum of forty Pounds be allowed, & Paid out of the publick Treasury to Paul Dudley Esq^r Attorney Generall, for his Service in the Said office to this time. [*Approved, September 4.*]

CHAPTER 82.

ORDER ESTABLISHING THE FORM OF A PRECEPT FOR COLLECTING THE FINES SET UPON SAMUEL VETCH, JOHN BORLAND, ROGER LAWSON, WILLIAM ROUS, JOHN PHILLIPS, JUNIOR, AND EBENEZER COFFIN, AND DIRECTING THAT IT BE SIGNED BY THE SECRETARY OF THE PROVINCE AND DELIVERED TO THE SHERIFF OF SUFFOLK COUNTY.

PROVINCE OF THE
MASSACH^{TS} BAY/.

To the Sheriffe of the County
of Suffolk Greeting.

I am Ordered by his Excellency the Govern^r Council & Representatives to make known unto you, That the Great and General Court or Assembly of this her Ma^{ty}s province in their present Session, haveing proceeded to the Tryal & Conviction of Samuel Vetch Esq^r, John Borland Merch^t Roger Lawson Merchant, William Rouse Mariner, John Phillips jun^r Mariner and Ebenezar Coffin Mariner (now in your Custody) upon certain Articles of high misdemeaⁿ severally Exhibited against them, And by Several Acts duely passed for the Punishment of the s^d Prisoners, Have Enacted that they do pay the several Sums following, as Fines to her Majesty, to and for the defence & Support of her Ma^{ty}s Government within this her Ma^{ty}s province That is to Say. —

The s^d Samuel Vetch y^e Sum of Two hundred pounds. —

The s^d John Borland the sum of Eleven hundred pounds

The s^d Roger Lawson the Sum of Three hundred pounds.

The s^d William Rouse the sum of Twelve hundred pounds

The s^d John Phillips jun^r the Sum of One hundred pounds

And the s^d Ebenezar Coffin the sum of Fifty pounds —

And the Cost and charge of Prosecution, and That they stand committed to Prison until the s^d fines and charges respectively be paid into her Ma^{ty}s Treasury of this her Ma^{ty}s province. Each of the s^d persons being to pay Fourteen pounds five shillings & ten pence Cost & charge of Prosecution —

Whereof you are to Notify the s^d prison^{rs} —

And you are Commanded in her Ma^{ty}s name to Govern yourselfe accordingly in the detaining & safe keeping of them & each of them —

Given At the Council Chamb^r in Boston the Fourth day of Septem^r 1706./ In the Fifth year of her Ma^{ty}s Reign —

Sept^r 4^o 1706. — In Council. —

Ordered That a Precept of the Tenour within written be signed by the Secretary and delivered to the Sheriffe of Suffolk. — [*Approved September 4.*

CHAPTER 83.

RESOLVE FOR ALLOWING AND PAYING TWO POUNDS AND TWO SHILLINGS, OUT OF THE PROVINCE TREASURY, TO DOCTOR HUMPHREY BRADSTREET, IN FULL DISCHARGE OF HIS ACCOUNT FOR MEDICAL ATTENDANCE ON SERGEANT PARKER, ONE OF CAPTAIN TYNG'S COMPANY.

Resolved, That the sum of two pounds two shillings be allow'd and paid, out of the publick treasury, to D^r Humphrey Bradstreet, in full of his account for his administring to Serg^t Parker, one of Captⁿ Tyng's men. [*Approved September 4.*

CHAPTER 84.

ORDER ON THE PETITION OF ANDREW BELCHER PRAYING TO BE EXCUSED FROM FURTHER SERVICE AS COMMISSARY-GENERAL, THANKING HIM FOR HIS SERVICES AND REQUESTING HIM TO CONTINUE IN SAID OFFICE, ETC.

A MEMORIAL presented by M^r. Commissary-General Belcher, desiring to be freed from the service of the said place, with an *order* pass'd thereon by the represent^{ves.}; viz., —

That the thanks of this court be return'd to the commissary-general for his good service in the said office, and that he be desired to continue therein; being sent up, was read and voted a concurrence. [*Passed September 4.*]

CHAPTER 85.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO ANDREW BELCHER FOR HIS SERVICES AS COMMISSARY-GENERAL DURING THE YEAR ENDING AUGUST 19, 1706.

Resolved — That the Sum of Two Hundred Pounds be Allowed & Paid out of the publick Treasury to Andrew Belcher Esq^r Commissary Generall for his good Service, in the Said Office the Year past ending the nineteenth day of August last. [*Approved September 4.*]

CHAPTER 86.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS THIRTEEN SHILLINGS AND FOURPENCE TO HENRY EMMES FOR HIS SERVICES AS MESSENGER TO THE HOUSE OF REPRESENTATIVES DURING THE YEAR 1706.

Resolved, That the sum of ten pounds thirteen shillings and fourpence be allow'd and paid, out of the publick treasury, to Henry Eams, messenger to this house, for his service this session and last. [*Approved September 4.*]

ORDERS, RESOLVE AND VOTES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-THIRD DAY OF OCTOBER, A. D. 1706.

CHAPTER 87.

ORDER IMPOWERING MARY WARD, WIDOW AND EXECUTRIX OF
EPHRAIM SALE, LATE OF BOSTON, DECEASED, TESTATE, TO SELL
THE SHARE IN THE REAL ESTATE OF THE TESTATOR, OF SAMUEL
SALE, SON OF SAID DECEASED, HE HAVING BEEN TEN YEARS AB-
SENT AND NOT HEARD FROM.

UPON READING a petition of Mary Ward, widow, late relict and sole executrix of the last will and testament of Ephraim Sale, late of Boston, cooper, dec^d, setting forth that, upon the division of the housing and land of the said Ephraim Sale, according to the direction of his last will and testament, to and among his children, there was assign'd and allotted unto Samuel Sale, second son of the dec^d, for his single share, a small apartment in a brick messuage or tenement, w^{ch} tenement falls in division with other of his bretheren and sisters, who have alienated their shares and interests therein, this share singly not being capable of any improvement, the said Samuel having been absent out of the country by the space of ten years and upwards, and is supposed to be dead, having not been heard of for more than nine years past, praying that she may be empowered to make sale thereof, etc., —

Ordered, That the prayer of the petition be granted, and the petitioner is hereby enabled and empowered to make sale of the share of the brick messuage or tenement allotted to the said Samuel Sale, as is within mentioned, the produce thereof to be distributed to and among his surviving bretheren and sisters, upon security given to refund and pay back each one's rateable part and proportion thereof unto the said Samuel Sale in case it hereafter appear that he is living, or to his widow, or lawful issue, if any such there be, when it shall be lawfully demanded, the allegations in the said petition having been made certain. [*Approved October 29.*]

CHAPTER 88.

RESOLVE FOR ALLOWING AND PAYING SEVENTY-FIVE POUNDS OUT OF THE PROVINCE TREASURY TO JOHN SHELDEN, JOHN WELLS AND JOSEPH BRADLEY, FOR THEIR SERVICES AND EXPENSES IN A JOURNEY OVERLAND TO QUEBEC TO PROCURE THE RETURN OF CAPTIVES, ETC.

THE FOLLOWING RESOLVE pass'd in the house of represent^{res.} upon the petition of M^r. John Shelden, in behalf of himself and companions in a journey to Canada; viz.,—

Resolved—That the sum of Thirty and five Pounds, be Allowed, & Paid, out of the Publick Treasury to M^r. John Shelden, the Sum of Twenty Pounds to John Wells, & the sum of Twenty Pounds to Joseph Bradley, over and above what They have had in fitting them out &c^e as a full Compensation for their Service mentioned in this Petition. [*Concurred in by the Council, and approved October 29.*]

CHAPTER 89.

RESOLVE FOR ALLOWING AND PAYING THIRTY POUNDS TO JOHN CAMPBELL, FOR HIS SERVICES AS POSTMASTER OF NEW ENGLAND TO DATE.

Resolved—That the Sum of Thirty Pounds be Allowed, and Paid, out of the publick Treasury to M^r. John Campbel the Petitioner, in full for his Service to y^e. Publick untill this Day. [*Approved October 30.*]

CHAPTER 90.

RESOLVE FOR ALLOWING AND PAYING FIFTEEN POUNDS OUT OF THE PROVINCE TREASURY TO JONATHAN BAKER OF SALEM, FOR HIS EXPENSES AND LOSS OF TIME IN CARING FOR HIS SERVANT, JOHN COLBORN, ACCIDENTALLY WOUNDED WHILE IN THE QUEEN'S SERVICE.

Resolved—That the Sum of fifteen Pounds be Allowed, & Paid out of the Publick Treasury, to Jonathan Baker the Petitioner, viz: £*n*.6*n*16*n* -- for his Servants Diet at the Doctors £*n*.5*n*10*n* -- for Cure, and £*n*2*n*14*n* -- for his Cost and Trouble about his Servant. [*Approved October 30.*]

CHAPTER 91.

ORDER APPOINTING A HEARING AT THE FIRST SESSION OF THE NEXT GENERAL COURT UPON THE PETITION OF THE INHABITANTS OF LONGMEADOW, IN SPRINGFIELD, PRAYING TO BE ALLOWED TO BUILD A MEETING-HOUSE AND SETTLE A MINISTER. [*Approved October 30.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 92.

ORDER DIRECTING THE PROVINCE TREASURER TO PAY CAPTAIN BENJAMIN STEVENS EIGHTY-FOUR POUNDS THREE SHILLINGS AND NINEPENCE, TO BE BY HIM PAID TO THE SOLDIERS ON THE MUSTER-ROLL RETURNED BY HIM, WHO SERVED UNDER HIS COMMAND, ETC., AND FORBIDDING PAYMENT OF THE LOST CERTIFICATES PREVIOUSLY ISSUED FOR THAT AMOUNT.

WHEREAS for payment of the Wages due to several Souldiers that served Her Majesty under the Command of Cap^{tn} Benjamin Stevens, named in his Muster Roll pass'd into the Treasury with his Excellency's warrant thereupon, of the 22nd of July past.

The Treasurer made out Certificates to several Constables Viz^t three of the Constables of Boston for £⁷³7¹¹9. The Constable of Bradford for £⁶15¹¹8. The Constable of Haverhill for £⁴—4. amounting in the whole to the Sum of £⁸⁴3.9. and delivered the said Certificates to the said Captain Stevens, and he carrying them home, his House was broken up, and all the said Certificates stol'n and carried away; whereof the said Stevens has made Oath; And the said Souldiers remain unpaid. —

Ordered That the Treasurer make payment of the above Sum of Eighty four pounds three shillings and Nine pence to the said Captain Stephens on behalfe of the Souldiers named in the aforesaid Certificates, Each one his respective proportion thereof; And that this Order be Entred upon the s^d Muster Roll. And the Treasurer is further Directed to take especial care That none of the said Certificates be paid by the s^d Constables, or received & accepted in payment at the Treasury; And that any Constable or other person offering the same be brought before one or more of the Members of Her Ma^{ty}s Council to be strictly Examined and Inquired of, how and of whome he had the same. — [*Approved October 30.*]

CHAPTER 93.

ORDER FOR POSTPONING TO FRIDAY, NOVEMBER 8, 1706, THE HEARING APPOINTED BY THE VOTE OF JULY 12, 1706,* ON THE PETITION OF THE PROPRIETORS OF BILLERICA, ETC. [*Passed October 31.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 94.

ORDER APPOINTING A HEARING UPON THE PETITION OF THE INHABITANTS OF THE WEST END OF THE TOWN OF ROXBURY PRAYING TO BE MADE A SEPARATE PRECINCT, ETC., AND ORDERING NOTICE TO BE SERVED ON THE SELECTMEN, ETC. [*Approved November 2.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* Chapter 40, *ante*; and see chapter 64, *ante*.

CHAPTER 95.

ORDER REMOVING THE RESTRICTION ON PROCEEDING WITH THE BUILDING OF THE NEW MEETING-HOUSE IN LANCASTER, ETC.
[*Approved November 2.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 96.

RESOLVE FOR ALLOWING AND PAYING TO THE GOVERNOR, MEMBERS OF THE COUNCIL AND THE REPRESENTATIVES, FOR THEIR EXTRAORDINARY SERVICES DURING THE LAST SESSION, SEVERAL SUMS, AMOUNTING, IN ALL, TO TWO HUNDRED TWENTY-TWO POUNDS AND TWELVE SHILLINGS.

Resolved That the Several Sums and Allowances ordered for his Excellency, The Members of the Council and the Representatives for their Extraordinary Service the last Session of this Court, be forthwith paid out of the Publick Treasury; without any reference to the Fines laid in that Session. That is to Say.

That the Sum of Fifty pounds be paid to his Excellency.

To the members of the Council, the Sum of Forty two pounds Fourteen shillings, being after the rate of Two Shillings *p diem* Each.

To M^r. Speaker and the Representatives, the Sum of One Hundred Twenty nine pounds Eighteen Shillings,

And that his Excellency be Desired to give out Warrants accordingly. — [*Approved November 4.*]

CHAPTER 97.

ORDER FOR ALLOWING AND PAYING TWO POUNDS TWELVE SHILLINGS AND THREEPENCE* OUT OF THE PROVINCE TREASURY TO CAPTAIN HENRY SOMERBY IN BEHALF OF BENJAMIN DOLE FOR HIS SERVICES IN ATTENDING ROBERT ROBERTSON, A SOLDIER IN THE QUEEN'S SERVICE, WHILE HE LAY SICK AT HAMPTON.

AN ACCOMPT of Benjamin Dole for attendance and administration to Robert Robertson, a soldier in her maj^y's service, who lay sick at Hampton in April last, amounting to two pounds and twelve shillings and sixpence, sent up from the represent^{es}. with the order pass'd in that house thereupon; viz., —

Ordered, That the sum of two pounds twelve shillings and threepence be allow'd and paid out of the publick treasury to Cpt. Henry Somersby in behalf of the abovemention'd Benj^a. Dole; w^{ch}. order being read was concurr'd. [*Approved November 5.*]

* The amount actually paid was £2 12s. 6d., as in the preamble

CHAPTER 98.

RESOLVE FOR ALLOWING AND PAYING FIVE POUNDS OUT OF THE PROVINCE TREASURY TO EDWARD SARGENT FOR TRANSPORTING SOLDIERS AND HORSES OVER MERRIMAC RIVER AT NEWBURY.

AN ACCOMPT of Edward Sergeant for ferriage of soldiers and horses over Merrimack river at Newbury in the years 1703, 1704, 1705 and 1706, with the order pass'd thereon in the house of represent^{ves.}; viz.,—

Resolved, That the sum of five pounds be allow'd and paid out of the publick treasury to the said Edward Sergeant, in full of his accompt above written; w^{ch} resolve being read at the board was concur'd. [*Approved November 6.*]

CHAPTER 99.

ORDER FOR APPOINTING A COMMITTEE TO SURVEY THE ANCIENT AND STATED BOUNDARY LINES BETWEEN THE FORMER COLONY OF MASSACHUSETTS BAY AND THE COLONY OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, AND TO RENEW THE BOUND-MARKS WHERE NECESSARY, AND TO REPORT THEIR DOINGS TO THE GENERAL COURT; ALSO FOR REQUESTING THE GOVERNOR TO NOTIFY THE GOVERNOR OF RHODE ISLAND OF THIS APPOINTMENT, ETC. [*Approved November 6.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 100.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF BROOKFIELD TOWARDS THE MAINTENANCE OF THE MINISTRY DURING THE YEAR BEGINNING NOVEMBER 7, 1706.

Resolved—That the Sum of Twenty Pounds be Allowed, and Paid, out of the Publick Treasury towards the Support of the Ministry, in the Town of Brookfield, for the year ensuing beginning yesterday, [*Approved November 8.*]

CHAPTER 101.

RESOLVE DEFINING THE ORDER OF NOVEMBER 16, 1705,* RESPECTING THE DIVISION OF UNDIVIDED AND WASTE LANDS BELONGING TO THE TOWN OF BILLERICA, ETC. [*Approved November 13.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* See order, 1705-6, chapter 80.

CHAPTER 102.

ORDER ON THE PETITION OF THE INHABITANTS OF THE EASTERN-MOST PART OF THE TOWN OF BRIDGEWATER AND THE PROPRIETORS OF LANDS ADJOINING, PRAYING TO BE MADE A TOWNSHIP, DIRECTING THEM TO SUBSCRIBE WHAT THEY ARE CAPABLE AND WILLING TO PAY ANNUALLY FOR THE SUPPORT OF A MINISTER, AND TO PRESENT THE SAME AT THE NEXT SESSION OF THE GENERAL COURT. [*Approved November 15.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 103.

RESOLVE FOR ALLOWING AND PAYING NINETEEN POUNDS SIX SHILLINGS AND FIVEPENCE OUT OF THE PROVINCE TREASURY TO THE TOWN OF BOSTON FOR THE SUPPORT OF PRISCILLA SMART, AN IMBECILE PERSON DRIVEN FROM BLACK POINT BY THE ENEMY.

AN ACCOMPT of the overseers of the poor of the town of Boston for cloathing, diet, washing and lodging for Priscilla Smart from the 2^d of January, 1704, to the 12th of November, 1706, amounting to nineteen pounds six shillings and fivepence, sent up from the representatives with the resolve of that house thereon; viz.,—

Resolved—That the Sum of Nineteen Pounds, Six Shillings, & five pence, be allowed & Paid out of the publick Treasury, to the Overseers of the Poor in Boston, to Discharge the account above written. [*Concurred in by the Council, and approved November 16.*]

CHAPTER 104.

ORDER FOR PRINTING, ETC., THE FURTHER SUM OF TEN THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT.

Ordered—That the Sum of Ten Thousand Pounds, of Bills of Publick Credit, on this Province, be further Imprinted, and Signed, by the Committee that made the last Bills, as soon as may be; who Shall be Rewarded, for their Service after the Rate, they were, for the Bills they last made, About five Hundred Pounds of the s^d Sum, to be made upon the Plate, that Contains, halfe Crown, & two Shilling Bills. and the Remainder of the S^d Sum, upon the Plate which Contains forty Shilling, Twenty Shilling, Ten Shilling and five Shilling Bills, & Deliver them to the Treasurer, Taking his Receipt for the Same. [*Approved November 19.*]

CHAPTER 105.

VOTE FOR APPOINTING A COMMITTEE TO ENQUIRE IF THERE IS LAND TO BE HAD IN EXCHANGE FOR THE LAND FORMERLY BELONGING TO DANIEL WILCOK, WHICH WILL BETTER ACCOMMODATE THE INDIANS NOW SETTLED THEREON.* [*Approved November 19.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 106.

ORDER AUTHORIZING SUSANNAH AMSDEN, WIDOW OF JACOB AMSDEN, LATE OF CAMBRIDGE, DECEASED, TO SELL THE REAL ESTATE OF SAID DECEASED FOR HER SUPPORT, ETC.

A PETITION of Susannah Amsden, relict, widow and administratrix of Jacob Amsden, late of Cambridge, within the county of Middlesex, dec^d, praying to be impower'd to sell a small piece of marish about an acre, and a piece of land containing about three acres and three-quarters, which yields no income, lately laid out at a distance from the house, for her support, was read, and the following order pass'd thereupon, viz., —

In Answer to the within Petition, Information being given, That the Estate was acquired by the joint Labour and Industry of the Pet^r and her said late Husband during their marriage; And there being no Issue of the dece^d

Ordered That the Pet^r be and hereby is fully Impowred to make Sale of the Lots of Out lands mentioned in the dece^ds Inventory, for her necessary releife and Support, (She being disabled for Labour) And to Execute a good and lawful Deed of Sale thereof to the Purchaser his heires and assigns for ever; which shall be good and Effectual in the Law to all Intents and purposes. — Unless the heires of y^e s^d Jacob Amsden shall forthwith Deposit Ten pounds in money to the Widow for her Support, the Lands to be charged therewith; And to be first repaid thereout, before any Division be made of the Estate, after the Widows decease. [*Approved November 21.*]

CHAPTER 107.

RESOLVE FOR ALLOWING AND PAYING TWENTY SHILLINGS OUT OF THE PROVINCE TREASURY TO EACH OF THE CAPTIVES RETURNED FROM CANADA.

Resolved — That the Sum of Twenty Shillings, be Allowed and Paid out of the publick Treasury, to each of the Captives, this day, Return'd from Canada. [*Approved November 21.*]

* See resolve, 1700-1, chapter 80.

CHAPTER 108.

ORDER ON THE PETITION OF THE TOWN OF TOPSFIELD RESPECTING THE CLAIM OF THE TOWN OF BOXFORD TO ENDICOTT'S AND GOULD'S FARMS, APPOINTING A HEARING THEREON AT THE NEXT SESSION OF THE GENERAL COURT, AND DIRECTING A COPY OF THIS ORDER TO BE SERVED ON THE SELECTMEN OF BOXFORD, AND THAT, IN THE MEAN TIME, THE SAID FARMS REMAIN AS LAST ORDERED BY THE GENERAL COURT.* [*Approved November 26.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 109.

ORDER DIRECTING THE COMMITTEE APPOINTED TO SUPERINTEND THE PRINTING, ETC., OF THE BILLS OF CREDIT, TO PRINT THREE THOUSAND OF THEM FORTHWITH, TO BE TRANSMITTED TO THE SEVERAL TOWNS WITHIN THIS PROVINCE PROPORTIONABLY TO THE AMOUNT OF THE PROVINCE TAX PAID BY SAID TOWNS, RESPECTIVELY.

Ordered, That a plate be forthwith provided, and the eight several stamps or blazons affix'd to the bills of publick credit on this province, respectively, be engraven thereupon, and that the comm^{tee}. for imprinting of the bills forthwith imprint three thousand of them, to be transmitted to the several towns within this province, proportionably to the sum they pay in the publick tax, for the better information of her majestie's good subjects of the different forms of the said stamps, and to which of the bills, respectively, they belong; the figure of the sum of the bill to be placed in the middle of the stamp, for discouraging and preventing the designs and endeavours of ill men to alter and increase the sum of the bills. [*Approved November 26.*]

CHAPTER 110.

ORDER REQUESTING JOHN BRIDGER, SURVEYOR-GENERAL, TO PREPARE THE DRAUGHT OF INSTRUCTIONS FOR THE MANUFACTURE OF NAVAL STORES, TO BE PRINTED AND DISTRIBUTED AT THE PUBLIC EXPENSE, AND GRANTING HIM LIBERTY TO PREPARE A BILL TO ENCOURAGE THE RAISING OF NAVAL STORES IN THIS PROVINCE, ETC.

THE MEMORIAL of M^r. John Bridger, surveyour-gen^l. of all her maj^{ty}'s woods in America, presented the 22^d curr^t. and sent to the repres^{es}., was return'd with the order of that house thereon, viz., —

Ordered — That the Memorialist be Desired to Prepare a Draught of Instructions, for the Manufacturing of Naval Stores, to be Imprinted, & Dispersed, in the several Towns of the Province, at the publick charge. And That He have Liberty to Offer to this Court, a Bill for Directing, & further Encouraging, the Raising of Navall Stores, in this Province, if he apprehends, there is any thing in the Law wanting for that end. [*Concurred in by the Council, and approved November 26.*]

* See order, 1702, chapter 13.

CHAPTER 111.

RESOLVE FOR ALLOWING DANIEL LAWRENCE OF CHARLESTOWN, AND JAMES WOOD OF BOSTON, FORTY SHILLINGS, EACH, PER MONTH, FOR THEIR SERVICES AS WAITERS TO THE IMPOST OFFICE FOR THE TIME CERTIFIED BY JAMES RUSSELL, COMMISSIONER OF THE IMPOST, TO BE PAID TO HIM FOR THEIR USE.

UPON A CERTIFICATE presented by James Russell, Esq^r, commissioner for impost, that Daniel Lawrence of Charlestown and James Wood of Boston have served as waiters at the impost office, the first from the first of May last at sundry times, and the latter from the twenty-sixth of August to this time, and a proposal for his continuance of half a month more, —

Resolved — That there be Allowed out of the publick Treasury, after the Rate of forty shillings p month, to each the Waiters abovementioned for the time of their Service Certified as above And Paid to James Russel Esq^f to be by him paid as due. [*Approved November 30.*]

CHAPTER 112.

RESOLVE FOR ALLOWING AND PAYING FIVE POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL WAKEFIELD, IN FULL, FOR HIS SERVICES AS WAITER TO THE IMPOST OFFICE AT SALEM, ETC.

Resolved, That the sum of five pounds be allowed and paid out of the publick treasury to Samuel Wakefield, in full, for his service to this day as waiter at the impost office at Salem. [*Approved November 30.*]

CHAPTER 113.

ORDER FOR APPOINTING A COMMITTEE ON THE PETITION OF JOSEPH WELD AND OTHERS,* TO VIEW THE SITUATION AND REPORT ON THE FEASIBILITY OF SETTING OFF A PRECINCT IN THE WEST PART OF ROXBURY WITHOUT INJURY TO THE INHABITANTS OF THE EAST PART OF SAID TOWN. [*Approved November 30.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 114.

ORDER DIRECTING THE BUILDING OF WHARVES AND MAKING REPAIRS ON THE FORTIFICATIONS AT CASTLE ISLAND.†

Ordered — That a Wharfe be forthwith built before the West, & East Demi Bastion, at the lower Battery, and the Wharfe by the

* See orders, chapters 55 and 94, *ante*.

† There is some confusion in the records respecting this order, owing to its having been twice entered; the first time under date of November 18th, in connection with the report of

Blockhouse Repaired at the publick charge, if the Winter be not so far advanc'd as to forbid it, or at least that something be done, to Prevent their undermining this Winter, & the Tops of the Walls pointed and shingled in the Spring. the souldiers, to be Imploied in the work as much as may be & be allowed twelvecpence p day more than their stated Wages.

That Since It is too late to begin upon Mason's Work this Winter, that the Remainder, of the Proposals be Referr'd to further Consideration at the next session of this Court%. [*Approved November 30.*]

CHAPTER 115.

VOTE ACCEPTING THE REPORT OF THE COMMITTEE APPOINTED TO CONSIDER THE EXPENSE, ETC., OF WOOD AND CANDLES AT CASTLE WILLIAM, ETC.

A REPORT of John Walley, Penn Townsend and Andrew Belcher, Esq^{rs}, a committee of the board to consider of the charge and expence of wood and candles at Castle William; viz., That it is necessary to set up eight stoves in the guard-rooms and lodgings, for the more comfortable entertainment of the officers and soldiers there to abide, which being done, ninety cord of firewood may be sufficient to serve the occasions of the Castle one year, and that four hundred pounds of candles will be sufficient for the same time; that the several officers indent for the several stores and utensils they have or shall receive into their possessions, which belong to the province, and that they account for the same with such person as his ex^{cy}. and council shall appoint.

W^{ch}. report was read and accepted by the council and sent down to the represent^{res}, who concur'd with the last paragraph, and so far further forth as that eight stoves be set up, if so many be found necessary, and that all frugality be used in the expence of wood and candles. [*Approved November 30.*]

CHAPTER 116.

ORDER FOR A STAY OF EXECUTION ON A JUDGMENT RECOVERED BY NATHANIEL BYFIELD, JUDGE OF PROBATE, IN AN ACTION ON THE OFFICIAL BOND OF NATHANIEL BLAGROVE, ADMINISTRATOR OF THE ESTATE OF NATHAN HAYMAN, LATE OF BRISTOL, DECEASED, AND PROVIDING FOR A SETTLEMENT OF SAID ADMINISTRATOR'S ACCOUNT.

IN ANSWER to the Petition of Nathaniel Blagrove Admin^r of the Goods Chattels &c. of Nathan Hayman late of Bristol within the County of Bristol mariner dece^d Praying for Remedy against a Judgment rendred against him in the Superio^r Court of Judicature for Six Thousand Pounds, the whole Penalty of his Adm^{con} Bond, at the Suit

the committee appointed to visit the Castle, etc., and a vote of the Council thereon requesting the Governor to enlist as sentinels at the Castle a carpenter and a mason to be constantly employed in repairing the works. This vote does not appear to have been concurred in by the House. The second entry, under date of November 30, contains only the order as above printed.

of Nathaniel Byfield Esq^r. Judge of Probate within the said County, and Execution issued thereupon.

Ordered That the Execution be Suspended until y^e last day of May next And that in the meantime the Pet^r render an Accompt of his Adm^{con} to the said Nathan^l Byfield Esq^r. Judge of Probate within the afores^d County. And upon the said Judge's acceptance and Allowance thereof and Payment made by the Pet^r of so much of the Estate as shall thereby appear to be remaining in his hands to be Distributed Pursuant to Law; The Judge shall acknowledge Satisfaction upon Record of the s^d Judgement for Six Thousand Pounds. But in case the said Judge do not Accept and Allow the accompt, That then the Pet^r lay his accompt before the Governo^r and Council, to whome that Jurisdiction is belonging, and upon their Adjustment and Settlement thereof and paym^t made as aforesaid, The said Judgement for Six Thousand Pounds be discharged and Satisfaction thereof acknowledged in manner as above express'd. Otherwise this Order to be of none Effect. [*Approved December 2.*]

CHAPTER 117.

ORDER FOR FURNISHING SOLDIERS WITH FIREARMS FOR HER MAJESTY'S SERVICE, AND HOLDING THEM ACCOUNTABLE THEREFOR.*

[*Approved December 3.*]

[*Printed in the notes to the acts of the year 1706-7.*]

CHAPTER 118.

ORDER FOR APPOINTING A COMMITTEE TO CONSIDER TO WHAT CON-STABLEWICK AND COUNTY IT IS MOST CONVENIENT TO ANNEX THE TRACT OF LAND PURCHASED OF THE INDIANS BY BARNABAS LOTHROP AND OTHERS, LYING BETWEEN THE COUNTIES OF PLYMOUTH, BARNSTABLE AND BRISTOL, ADJOINING TO, AND PARTLY BOUNDED BY, THE TOWN OF ROCHESTER, ETC. [*Approved December 4.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 119.

ORDER GRANTING TO THOMAS HOUGHTON OF BOSTON A PATENT FOR THE USE OF WHALE FLESH IN THE MANUFACTURE OF SALTPETRE, ETC.

IN ANSWER to the petition of sundry inhabitants of Eastham and other parts near Cape Cod, that Thomas Houghton, resident in Boston, merchant, may have the sole liberty and power to try what profit and improvement may be made of the whale flesh after the fat and bones are separated, by the space of ten years next coming, —

* This order was printed and distributed throughout the province with the acts of the session.

Ordered That the s^d Tho: Houghton have a Patent for the Improvement of the Whale Flesh, as is desired, Provided That within the space of Four years, he shew forth to the Satisfaction of the Govern^t Council & Assembly, That his Projection will take Effect, for the rayseing of Salt Petre, to Supply the Province. — [*Approved December 5.*]

CHAPTER 120.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO JOSEPH DUDLEY FOR HIS SERVICES AS GOVERNOR, ETC.

Resolved, That the sum of two hundred pounds be allow'd and paid out of the publick treasury to his ex^{ty}. Joseph Dudley, Esq^r, captain-gen^l and govern^r-in-chief of this her maj^{ty's} province, for his support in managing the affairs of the government. [*Approved December 5.*]

CHAPTER 121.

RESOLVE FOR ALLOWING AND PAYING FIFTY POUNDS TO ISAAC ADDINGTON, SECRETARY OF THE PROVINCE, FOR HIS EXTRAORDINARY SERVICES DURING THE YEAR ENDING DECEMBER, 1706.

Resolved, That the sum of fifty pounds be allow'd and paid out of the publick treasury to Isaac Addington, Esq^r, for his extraordinary service for this province the year curr^t, ending this month. [*Approved December 5.*]

CHAPTER 122.

RESOLVE FOR ALLOWING AND PAYING SIXTY POUNDS TO SAMUEL WILLARD, VICE-PRESIDENT OF HARVARD COLLEGE, FOR HIS SERVICES DURING THE YEAR ENDING SEPTEMBER 30, 1706.

Resolved — That the Sum of Sixty Pounds be Allowed, & Paid out of the Publick Treasury, to the reverend M^r Samuel Willard, Vice-President of Harvard Colledge, for his Service the year past, expiring the thirtieth day of Septem^r last. [*Approved December 5.*]

CHAPTER 123.

RESOLVE FOR ALLOWING AND PAYING FIFTEEN POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, FOR HIS SERVICES DURING THE YEAR ENDING MAY, 1707.

Resolved, That the sum of fifteen pounds be further allow'd and paid out of the publick treasury to M^r John White, clerk of the house of representatives, for his service the year curr^t, ending in May next. [*Approved December 5.*]

CHAPTER 124.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL HILL OF WELLS, IN FULL, FOR HIS SERVICES AND EXPENSES IN FORWARDING THE RETURN OF ENGLISH PRISONERS FROM CANADA.

Resolved, That the sum of ten pounds be allow'd and paid out of the publick treasury to Samuel Hill, in full, for his service and expences for and towards the returning of the English prison^{ers} from Canada. [*Approved December 5.*

CHAPTER 125.

ORDER FOR ACCEPTING THE ACCOUNT OF SAMUEL APPLETON, LATE COMMISSIONER WITH A FLAG OF TRUCE TO CANADA, WITH THANKS FOR HIS SERVICES; AND FOR ALLOWING AND PAYING HIM THE BALANCE OF ONE HUNDRED AND SIX LIVRES AND FIVE SOLS OUT OF THE PROVINCE TREASURY AT TWENTY PENCE PER LIVRE, AS ALSO THE FURTHER SUM OF TWO POUNDS THIRTEEN SHILLINGS AND SIXPENCE FOR FIVE BIBLES; AND FOR CHARGING CERTAIN ITEMS IN SAID ACCOUNT TO THE OWNERS AND MASTER OF THE BRIGANTINE HOPE.

AN ACCOMPT of disbursements by Samnel Appleton, Esq^r, late commissioner with a flagg of truce to Canada, amounting to fourteen hundred and six livres and five sols, was sent up from the represent^{res}. with the order of that house thereupon; viz., —

Ordered — That the Above-Account be accepted, and the Ballance thereof viz! One Hundred, & six Livers, & five Solz, be allowed & paid out of the publick Treasury to Samuel Appleton Esq^r at twenty pence ^p liver, with the thanks of this Court for his good service and Two pounds thirteen Shillings, & sixpence, for the five Bibles.

That the first article, of the acc^t which is for Riggings, be Deducted, out of the Hire of the vessel, at the Same Rate.

And That the Commiss^y Gener^l have Regard to this account, in making up the acc^t of victualling with M^r Bonner, the Master, so that He accompt, for such articles therein as are proper, particularly the Provisions & Sugar. [*Concurred in by the Council, and approved December 6.*

CHAPTER 126.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS OUT OF THE PROVINCE TREASURY TO REVEREND JOHN WILLIAMS TOWARDS HIS SUPPORT IN THE MINISTRY AT THE TOWN OF DEERFIELD.

Resolved That the Sum of Forty Pounds, be Allowed, and Paid out of the publick Treasury, unto the reverend M^r John Williams, Minister, of the Town of Deerfield, towards his Support, in that work, for the year ensuing, beginning this day in case he shall return thither within the space of three weeks next coming, and there remain the s^d tunc. [*Approved December 6.*

CHAPTER 127.

RESOLVE FOR THE EMISSION OF TEN THOUSAND POUNDS OF THE BILLS OF PUBLIC CREDIT NOW IN THE TREASURY, AND TEN THOUSAND POUNDS MORE OF THE BILLS ORDERED TO BE NEWLY PRINTED THIS SESSION, AND FOR GRANTING A TAX OF EIGHTEEN THOUSAND POUNDS. [*Approved December 7.*]

[*Printed in the notes to the acts of the year 1706-7.*]

CHAPTER 128.

RESOLVE DIRECTING THE PROVINCE TREASURER TO PAY THE WAGES OF SOLDIERS IMMEDIATELY OUT OF THE PROVINCE TREASURY, AND NOT TO ISSUE CERTIFICATES THEREFOR TO CONSTABLES; AND REQUIRING CONSTABLES TO RETURN ALL OUTSTANDING CERTIFICATES.

Resolved, That the treasurer be directed to make out no more certificates upon any constable or constables for the payment of soldiers' wages, but to pay such wages immediately out of the province treasury, any law, usage or custom to the contrary notwithstanding.

That the constables be directed to return into the treasury the certificates that are already out, at or before the last day of May next.

Until which time the treas^r is allow'd to receive any debentures that are still outstanding. [*Approved December 7.*]

CHAPTER 129.

RESOLVE FOR ALLOWING AND PAYING FIFTEEN POUNDS OUT OF THE PROVINCE TREASURY TO JOHN BARNARD, IN FULL OF HIS ACCOUNT FOR ERECTING A BEACON IN BOSTON.

Resolved That the Sum of fifteen Pounds be allowed & Paid out of the publick Treasury to M^r John Barnard, in full of his acc^t on the other side [*Approved December 7.*]

VOTES, RESOLVES AND ORDERS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE FIFTH DAY OF MARCH, A. D. 1706-7.

CHAPTER 130.

VOTE FOR SETTING APART A FORENOON TO BE SPENT IN PRAYER
BY THE GENERAL COURT, WITH THE ASSISTANCE OF THE MINIS-
TERS.

THIS HOUSE, duly considering the great weight and importance of the
affairs now before the court, propose that to-morrow, in the forenoon,
be sett apart humbly to implore the direction of Allmighty God
therein, and the assistance of the ministers be desired for that end.
Read and *agreed* to by the council. [*Passed March 6, 1706-7.*]

CHAPTER 131.

RESOLVE FOR APPOINTING A COMMITTEE TO CONSIDER THE IMPORT
OF THE GOVERNOR'S SPEECH, REFERRING TO THE PROSECUTION
OF THE WAR, ETC.

In Council. —

Resolved That Committees of both Houses be appointed to Consider
the Import of his Excellency's Speech referring to the Prosecution
of the War. —

And Whither it be practicable to Insult the French Settlements in
Nova-Scotia or L'Accadie, particularly the Fort at Port-Royal?

If so. What Ships of War, Transports and Land Forces may be
thought necessary to forme such an Expedition?

What Stores of War, Provisions &c^t will be demanded to fit out and
furnish them?

Whither this Province be in a present Condition to make such
Supplies?

That Colonel Hathorne, Colonel Hutchinson, Colonel Phillips Colonel
Foster, Andrew Belcher Esq^r. Colonel Hunt and Captain Appleton
. . . be a Committee of the Board for this Affaire; wth such others of
the Council as shall thinke fit to attend. —

And that the Representatives be Desired to appoint a Committee of
their House to joyne therein. —

That the Committees sit forthwith and *de die in diem* and make their
Report to this Court with all possible Speed. —

Sent down for Concurrence.

Is^a. ADDINGTON Sec^{ry}

In the House of Representatives

Read. And Pass^d a Concurrence. And That Col: Checkley, Col: Church, M^r Jewet, Capt: Carey, Capt: Oliver M^r Epes, M^r Blagrove, Maj^r Eels, M^r Bond, Capt: Somersby and M^r Knowles, be a Committee, with Such others, of this House as shall think fit, to attend, to joine with the Committee of the Board in the aff^r afores^d

THOMAS OAKES *Speak^r*

[*Passed March 10, 1706-7.*

CHAPTER 132.

ORDER DIRECTING THE PROVINCE TREASURER TO BRING IN THE BILLS OF CREDIT OF THE LATE COLONY, IN HIS HANDS, AND THE WORN AND DEFACED BILLS OF CREDIT OF THE PROVINCE, AMOUNTING TO THE SUM OF THREE THOUSAND SEVEN HUNDRED NINETY POUNDS AND SIXTEEN SHILLINGS, TO BE BURNED IN THE PRESENCE OF THE GENERAL COURT; AND FOR DISCHARGING HIM TO THE AMOUNT OF THE FACE VALUE THEREOF.

PURSUANT to an Order of His Excell^{ty} and Council dated y^e 10th of January 1706 Ordering us to be a Committee to sort and take an Account of the bills of Credit on the late Colony of the Massachusetts lying in the Treasurers hands — And of Such & So many of the Bills of Credit on this Province as are defaced worne out and useless and to Seale them up — Each in distinct Papers Wee accordingly attended that Service on Wensday y^e 22nd of January last at the Treasurer^s Office and there took account of Bills of credit in his custody and sealed em in Several distinct parcells & left with the Treasurer as follows viz^t

5 bundles of the late Colony of the Massachusetts Bills

	<i>li</i>	<i>s</i>	<i>d</i>	
	1672	: 10	:	May account 1700
	685	: 15	—	May account 1703
	567	: 05	—	May account 1705
	21	: 15	—	May account 1706
to be inserted	21	: 05	:	in May account 1707

£2968 : 10 : Two thousand Nine
hundred Sixty Eight
pounds Ten shillings

3 Bundles of Province Bills defaced worne out
and useless

252 : 13 :
309 : 11 6 —
260 01 6

£822 : 06 : Eight hundred Twen-
ty two pounds Six
Shillings —

JOHN FOSTER
E^m HUTCHINSON
SAM^{ll}: CHECKLEY
EPHRAIM SAVAGE

13th March. 1706. In Council. — Read and accepted, And
Ordered That m^r Treasurer be Directed to bring in the said Bills to
be burn'd before this Court; And that he be discharged for the
same. —

Sent down for concurrence. —

Is^a ADDINGTON *Sec^{ry}*. —

In the House of Representatives.

March: 13: 1706, Read. twice & pass'd a Concurrence.

THOMAS OAKES *Speaker*

[*Approved March 13, 1706-7.*

CHAPTER 133.

ORDER DIRECTING THE PROVINCE TREASURER TO EXCHANGE WITH NATHANIEL BLAGROVE, FOR ONE UNENDORSED BILL OF CREDIT OF TEN SHILLINGS ON THE LATE COLONY OF THE MASSACHUSETTS BAY, A BILL OF THIS PROVINCE OF LIKE VALUE.

Ordered, That the treasurer be directed to receive a bill of credit of ten shillings on the late colony of the Massachusetts Bay, unindorsed, and give to M^r. Nath^l. Blagrove a bill of this province of the like value. [*Approved March 13, 1706-7.*]

CHAPTER 134.

RESOLVE FOR ALLOWING AND PAYING ELEVEN POUNDS SIX SHILLINGS AND THREEPENCE OUT OF THE PROVINCE TREASURY TO DOCTOR HUMPHREY BRADSTREET FOR HIS ATTENDANCE, ETC., UPON THREE SOLDIERS SICK IN THE QUEEN'S SERVICE.

Resolved, That the sum of eleven pounds six shillings and threepence be allow'd and paid out of the publick treasury to D^r. Humphrey Bradstreet, in full, for his attendance and administration to Samuel Burbank, John Oardway and Eben^r. Sergeant, soldiers sick in the service. [*Approved March 14, 1706-7.*]

CHAPTER 135.

RESOLVE FOR DISCHARGING THE PROVINCE TREASURER ON ACCOUNT OF THE BILLS OF CREDIT BURNED BY ORDER OF THE GENERAL COURT OF VOUCHERS TO THE AMOUNT OF THREE THOUSAND SEVEN HUNDRED NINETY POUNDS SIXTEEN SHILLINGS, WITH THE ADVANCE OF FIVE PER CENT ON THE PROVINCE BILLS.

14th March. 1706 $\frac{1}{2}$ In Council ~.

IN OBSERVANCE of the Order pass'd yesterday, m^r. Allen the Treasurers Clerk attended with the Bills of Credit reported by the Committee to be defaced worne out and of no further use. Viz^t

five bundles of the late Colony bills. —

£ 1672. 10. —	In his Acco ^t of May.	1700.	} In all Two Thousand Nine hundred Sixty Eight pounds Ten Shillings.—.
£ - 685. 15. —	In his Acco ^t of May.	1703.	
£ - 567. 5. —	In his Acco ^t of May.	1705.	
£ - 21. 15. —	In his Acco ^t of May.	1706.	
£ - 21. 5. —	to be inserted in May acc ^t	1707	

Three Bundles of Province Bills.—

£ 252. 13. — £ 309. 11. 6. — £ 260. 1. 6. — Eight hundred Twenty two pounds Six Shillings.—.

Amounting in the whole to Three Thousand Seven hundred and Ninety pounds Sixteen Shillings, lying in the Treasurers hands as Vouchers to his Accompts. — Which were all burn'd before the Court.

Resolved, That m^r. James Taylor Treasurer be and hereby is Discharg'd of his Vouchers for the afores^d Sum of £. 3790. 16. —. wth the Advance of five p^{ts} Cent. on the Province bills.— [*Concurred in by the House, and approved March 15, 1706-7.*]

CHAPTER 136.

RESOLVE* DECLARING THE GROWTH OF THE FRENCH AT NOVA SCOTIA INIMICAL TO THE TRADE AND SECURITY OF THIS PROVINCE, AND ADVISING THAT AN EXPEDITION BE FORMED TO RAVAGE THAT COUNTRY AND ATTACK THE FORT AT PORT ROYAL.

Resolved, That the Growth of the French at Nova-Scotia is likely to prove of fatal Consequence to the Trade and Repose of Her Ma^{ty}'s good Subjects within these Provinces.

And the Council accept the Report of the Committee^s That it's Advisable for Her Ma^{ty}'s Service and the Ease and quiet of Her good Subjects That an Expedition be formed to make a General Ravage of that Country, and to Insult the Fort at Port-Royal; If by a Council of War upon the place it be found practicable. [*Approved March 17, 1706-7.*]

CHAPTER 137.

ORDER FOR ALLOWING AND PAYING FIVE POUNDS OUT OF THE PROVINCE TREASURY TO JACOB COLLINS OF LYNN, A SOLDIER WHO LOST HIS THUMB BY ACCIDENT WHILE IN THE QUEEN'S SERVICE.

UPON READING the petition of Jacob Collins of Lyn, praying for some allowance from the publick in consideration of the loss of his thumb whilst in the service,—

Ordered — That the Sum of five Pounds be Allowed, & Paid, out of the publick Treasury to the Petitioner, in full for the Damage, he Sustain'd in the publick Service as aboves^d [*Approved March 17, 1706-7.*]

CHAPTER 138.

ORDER AUTHORIZING ABIGAIL WATKINS, WIDOW AND ADMINISTRATRIX OF JOHN WATKINS, LATE OF CHARLESTOWN, DECEASED, TO SELL THE ESTATE OF SAID DECEASED FOR THE PAYMENT OF HIS DEBTS, ETC.

UPON READING the petition of Abigail Watkins, relict, widow, and aminist^x of the estate of John Watkins, late of Charlestown, mariner, dec^d, praying liberty to make sale of the estate of her said husband for the payment of his just debts, and supply of her own and children's necessities, it being made to appear that the estate consists only of one-half of a messuage or tenem^t, with the land and wharf thereto belonging, lying in Charlestown, w^{ch} is in great despair, and like to be

* This resolve incorporates the substance of the first article in the report of the committee advising an expedition against Nova Scotia and proposing methods for raising forces and conducting the enterprise. It was concurred in on the 17th, while the rest of the report was not finally agreed to until the 21st, when other articles were added to it, and only the last sentence of the second article omitted. In chapter 142, *post*, the whole of this report, except the first article and the omitted sentence, is given together with the additional articles above mentioned, the last of which is a substitute for the omitted sentence.

wholly ruined; that there is a widow and five children, all of them young,—

Ordered That the Administratrix be Impowred with the Advice and Consent of Sam^l Heyman Esq^r. and m^r. William Jamison to make sale of the said Halfe Messuage or Tenement with the Land & Wharffe thereto belonging, and to Execute a sufficient Deed for the same.

And out of the proceeds thereof to pay the Just Debts of the dece^d. and then make up her Accompt with the Judge of Probate.

The Surplusage to be distributed to the Widow & Children in manner as the Law directs. — [*Approved March 18, 1706-7.*]

CHAPTER 139.

ORDER FOR CONTINUING TO THE NEXT SESSION OF THE GENERAL COURT THE HEARING OF THE TOWNS OF TOPSFIELD AND BOXFORD ASSIGNED FOR THE PRESENT SESSION. [*Approved March 18, 1706-7.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 140.

RESOLVE FOR ALLOWING AND PAYING THREE POUNDS AND ELEVEN SHILLINGS OUT OF THE PROVINCE TREASURY TO THE TOWN OF BOSTON FOR THE SUPPORT OF PRISCILLA SMART, AN IMBECILE PERSON DRIVEN FROM BLACK POINT BY THE ENEMY.†

Resolved, That the sum of three pounds and eleven shillings be allow'd and paid out of the publick treasury to the overseers of the poor in Boston, to reimburse the charge they have been at upon Priscilla Smart from the 12th of November to the 11th instant, as above. [*Approved March 18, 1706-7.*]

CHAPTER 141.

ORDER THANKING INCREASE MATHER, JOHN WILLIAMS AND BENJAMIN COLMAN FOR THEIR SERMONS PREACHED AT THE PUBLIC LECTURES DURING THIS SESSION OF THE GENERAL COURT, AND REQUESTING COPIES THEREOF, TO BE PRINTED AT THE PUBLIC EXPENSE.

In the House of Representatives March 21 : 1706.

Ordered — That the Thanks of this Court, be Given to the Reverend M^r Increase Mather, M^r John Williams, & M^r Benjamin Colman, for their Sermons, preach'd before them at the publick Lectures, this Session, & copys thereof be desired, to be Imprinted at the Publick charge.

Sent up for Concurrence.

THOMAS OAKES *Speaker*

* See order, chapter 108, *ante*.

† See resolve, chapter 103, *ante*.

Die p̄dict. In Council.

Read and Concurr'd. And That Samuel Sewall Esq^r. and the Secretary be Directed to attend the abovenamed Gentlemen with the Thanks of this Court and to Desire the Copy's, and to agree for the printing of them at y^e best rate they can, the Province to take off one hundred of Each. at Six pence Each. —

Is^a ADDINGTON Sec^y. —

[*Approved March 21, 1706-7.*

CHAPTER 142.

VOTE AGREEING TO THE REPORT OF A COMMITTEE RECOMMENDING THE RAISING OF A NAVAL AND LAND FORCE FOR THE EXPEDITION AGAINST THE FRENCH AT NOVA SCOTIA, AND FOR THE ENCOURAGEMENT OF THE OFFICERS AND MEN ENGAGED THEREIN, ETC.

THE REPORT of y^e Committee, appointed By the Gen^l Court to Consider the Import of his Excellencies Speech Referring to y^e Prosecution of y^e War as Follows — * * *

2. That his Excellency be Desired to direct, That her Maj^{ties} Ship of War the Dedford, Together wth y^e Province Galley, or Some other Sutable vessell go, To Cover & assist in y^e Expedition. And if his Excellency sees cause to Send y^e Galley, That a Sutable Vessell be taken up and Equip^t to Guard y^e Coasts in y^e Mean time. That a Sutable Number of Vessells proper for s^d Service may be also Taken up to Transport Our forces, One of w^{ch} to be for an Hospitall. That as many Whale-Boats as may be needfull for s^d Expedition be Taken up. That One Thousand able Souldiers be Raised for that service & as many Sea-Men as may be Judged Necessary to Sayl y^e Transports &c.

* * * * *

3. That One hundred Barrells of Powder be procured for s^d Service, & That Provision be provided for Ten Weeks according to y^e Establishment for y^e subsistence of the aboves^d Men —

4. That his Excellency be desired to Write to y^e Governm^{ts} of Connecticut Road Island & New-Hamp-Shire & to Sollicit them to Provide Their Quota to this Expedition On Their Proper Cost. And, That his Excellency would be pleased to Appoint y^e Commanders, That so y^e Souldiers may be Incouraged to List —

Additional Articles to the Report of the Committees.

That all Plunder saved by Order of the Officers, Except the Great Ordnance and Stores of War, be Shared to and among the Officers and Souldiers in proportion to their wages; And so much to be paid out of the Publick Treasury to Each private Centinel, as to make up the Sum they receive for Plunder, the same they would have had, in case the Plunder had been Shared in equal parts among officers and Souldiers. —

That the Land Officers Serving in the said Expedition have their Wages augmented one third part over and above the present Establishment, In case they attack the Fort, for their Encouragem^t

That Each private Centinel Volunteer be paid two Shillings p^r weeke Wages, over and above the present Establishment; In case they attack the Fort.

That the Saylor's on board our Ships have a like Encouragement and Addition to their Wages, as is given to the Land Forces, for the Service they shall perform on shoar at the Desire and Direction of the Commander in Chief of the Expedition.

That the Saylor's and Marines, on board Her Maj^{ty}'s Ship Deptford, doing any particular Service on shoar, at the Desire of the Commander in Chief of this Expedition, have given them Twenty Shillings, ~~p~~ man as a reward, if the ffort be Taken.

That If by the good providence of Almighty God the Forces do prosper, and they take and Demolish the Fort at Port Royal, There be One Thousand Pounds paid them out of the Publick Treasury, To be Shared in Equal Parts to Each man; Saving what thereout shall be promiss'd and assign'd by the Chief Commanding officer of the Expedition, as a Reward for any singular Service done upon the place. —

That if the number of one Thousand Souldiers, mentioned in the Report of the Committees, do not offer themselves voluntarily; what are wanting to be equally Impress'd out of such Towns as are not Frontiers by Land; So that the number of Souldiers Impress'd do not Exceed Three Hundred.

Read, & accepted, with the additionall articles annexd. — [*Approved March 21, 1706-7.*]

CHAPTER 143.

ORDER FOR ESTABLISHING THE WAGES OF CERTAIN OFFICERS ON THE EXPEDITION NOW DESIGNED FOR NOVA SCOTIA.

Ordered — That the Wages of the following Officers, in the Expedition, now Design'd to Nova, Scotia, be as follows. viz^t

To the Commander in chief four Pounds	} p week
To a Colonel, Three Pounds, fifteen shillings.	
To a Lient: Colon ^l Three Pounds ten shillings	

[*Passed March 22, 1706-7.*]

CHAPTER 144.

ORDER FOR ALLOWING AND PAYING SIXTY POUNDS OUT OF THE PROVINCE TREASURY TO CAPTAIN CHARLES STUCLEY, COMMANDER OF THE DEPTFORD, MAN-OF-WAR, AND THIRTY POUNDS TO THOMAS SUTTON, CAPTAIN OF THE DEPTFORD'S MARINES, AS A GRATUITY IN CASE THEY ASSIST IN ATTACKING THE FORT AT PORT ROYAL.

Ordered — That the Sum of sixty Pounds, be allowed, & Paid out of the publick Treasury, to Capt: Charles Stucley & the Sum of Thirty Pounds to Capt: Sutton, as a Gratuity in case they assist in Attacking the ffort at Port Royall. [*Passed March 22, 1706-7.*]

CHAPTER 145.

VOTE FOR APPOINTING WEDNESDAY, THE SIXTEENTH OF APRIL, 1707,
AS A DAY OF GENERAL FASTING.

A MESSAGE was sent to the represent^{ves.} that a general fast be observed upon Wednesday, the fifteenth* of April next, w^{ch.} the house agreed to. [*Passed March 22, 1706-7.*]

CHAPTER 146.

RESOLVE FOR PRINTING SIX THOUSAND POUNDS AND EMITTING TEN THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT; AND FOR GRANTING A TAX OF TEN THOUSAND POUNDS. [*Approved March 22, 1706-7*]

[*Printed in the notes to the acts of the year 1706-7.*]

* This should be sixteenth.

ORDERS AND RESOLVE

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE FIFTEENTH DAY OF APRIL, A.D. 1707.

CHAPTER 147.

ORDER FOR ALLOWING A TRIAL, AT THE NEXT SESSION OF THE SUPERIOR COURT, ETC., FOR THE COUNTY OF YORK, OF THE ACTION BROUGHT BY NATHANIEL KEENE AGAINST JOHN SHEPPARD, BOTH OF KITTERY, IN WHICH JUDGMENT FOR A TRACT OF LAND CLAIMED BY THE PLAINTIFF WAS RENDERED AGAINST HIM; THE APPELLANT TO BE SERVED WITH A COPY OF THIS ORDER, ETC.*

IN THE CASE of Nathaniel Kane of Kittery v^t John Sheppard Jun^r referring to Title of Land, Tryed before the Inferiour Court of Common Pleas holden for the County of Yorke on the first Tuesday of April. 1706. and Verdict and Judgement there given for the said Kane; From which Sheppard Appeal'd to the Superiour Court of Judicature. Refer'd by this Court at their Session in May past to the Judges of the Superiour Court, upon the Petition of the s^d Kane. Whereupon the Judges Reported their Opinion. Viz^t—That the Petitioner may be Allowed to have a Tryal in the case mentioned at the next Superiour Court to be holden for the County of Yorke, upon theAppeale; If this Honourable Court see cause.

Ordered That a Tryal be had accordingly. — And that the Petition^r Nathaniel Kane cause the Appell^t Sheppard to be Served with a Copy of this Order fourteen days before the Sitting of the said Court, And that Sheppard then prosecute his Appeale, with Effect; And upon his neglect of such Prosecution the Verdict and Judgement appealed from to be affirmed and Execution awarded accordingly. as the Law directs.—[*Approved April 17, 1707.*]

CHAPTER 148.

ORDER AUTHORIZING ELIZABETH WADE, WIDOW AND ADMINISTRATRIX OF JOHN WADE, LATE OF BERWICK, DECEASED, TO SELL THE ESTATE OF SAID DECEASED FOR THE SUPPORT OF HERSELF AND CHILDREN.

UPON READING this day at the board the petition of Elizabeth Wade, relict, widow, and administ^r of the estate of John Wade, late of Berwick, within the township of Kittery, clerk, dec^d, setting forth that her

* See order, chapter 8, *ante*.

said late husband, John Wade, invested what money he acquired in the few years of his continuing in the ministry at Berwick, in the purchase of a small lot of land containing about three acres, in building of a dwelling-house thereon, for the accomodation of himself and family, w^{ch}, with some few household goods, is what estate he died siezed of, leaving the petitioner with the care and charge of two young children; and the said house in that place being uncapable of improvement to yield any income for the support of the petitioner and her two babes, there being now an opportunity to make sale of the same, w^{ch}, if slip'd, another possibly will not offer, and the house fall into despair, praying that she may be impowered to make sale of the said house and land for the necessary subsistence of herself and children, and for their education, and to make and execute a good and sufficient deed in the law to convey and assure the same,—

Ordered That the Prayer of this Petition be granted, And the Petf is accordingly Impowred to make Sale of the House and Land therein mentioned and to Execute a Deed thereof. [*Concurred in by the House, and approved April 17, 1707.*]

CHAPTER 149.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS OUT OF THE PROVINCE TREASURY TO CAPTAIN JOHN PIERSON AND HIS COMPANY AND THE GARRISON AT DUNSTABLE, TO BE PROPORTIONABLY DIVIDED, FOR THE SCALP OF AN INDIAN ENEMY SLAIN THE LAST SUMMER.

Resolved — That the Sum of Ten Pounds, be Allowed, & Paid, out of the Publick Treasury, to Capt: John Pierson, for the scalp of an Indian Enemy, Slain the last summer by him, & Company at Dunstable, to be by him Distributed, & paid, to Such, of his Troop & the Inhabitants of the s^d Town, that were at the Garrison, when & where the Indian was slain in proportion, as the Law now in force directs the Inhabitants, to be Esteemed as Souldiers in pay, & the Representatives of those, then slain at the s^d Garrison to have their share. [*Approved April 17, 1707.*]

CHAPTER 150.

ORDER • ESTABLISHING THE RATE TO BE PAID FOR THE HIRE OF THE SHIP SUCESSE GALLEY, AND THE PAY OF HER OFFICERS.

THE SHIP SUCESSE Galley, being larger than Transports usually are.

Ordered — That the Pay for the s^d vessell & officers in her, for the present Expedition, be as follows p month, (in case she carries fourteen Great Guns, or more, well mounted and fitted. viz!

* The records show that this order was read in the Council, but contain no entry that it was concurred in; but, since it involved an increase of payment of money from the province treasury and was certainly passed by the House, it has been deemed best to insert it here, on the supposition that it may have been considered as binding for reasons similar to those for which the resolve, 1703-4, chapter 76, was treated as valid although not formally concurred in by the Council. See the note to that chapter.

The Said ship Seven shillings *p* Tun.

The Master. Six Pounds.

The chief Mate Three pounds ten shillings,

The Second Mate, Two pounds fifteen shillings.

The { Gunner,
Carpenter. } each, one pound fifteen shillings
Boatswaine }

And That all other Transports in the s^d Expedition, of Seventy Tuns, or upwards, be also allowed, a Boatswaine, Carpenter, & Cooper upon the Same Pay. [*Passed April 17, 1707*]



ORDERS,
VOTES AND RESOLVES,
PASSED 1707.

LEGISLATIVE LIST

FOR

1707.

HIS EXCELLENCY JOSEPH DUDLEY,
CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF, ETC.*

ISAAC ADDINGTON, Esq.,
SECRETARY OF THE PROVINCE.

COUNCILLORS OR ASSISTANTS.†

Of the inhabitants of, or proprietors of, lands within the territory formerly called the Colony of the Massachusetts Bay:—

WAIT WINTHROP, Esq.,
JAMES RUSSELL, Esq.,
JOHN HATHORNE, Esq.,
ELISHA HUTCHINSON, Esq.,
WILLIAM BROWNE, Esq.,‡
SAMUEL SEWALL, Esq.,
ISAAC ADDINGTON, Esq.,
JOHN PHILLIPS, Esq.,
JONATHAN CORWIN, Esq.,

JOHN FOSTER, Esq.,
PETER SERGEANT, Esq.,
PENN TOWNSEND, Esq.,
JOHN HIGGINSON, Esq.,
SAMUEL PARTRIDGE, Esq.,§
ANDREW BELCHER, Esq.,
EDWARD BROMFIELD, Esq.,
JOHN APPLETON, Esq.,
SAMUEL APPLETON, Esq.

Of the inhabitants of, or proprietors of, lands within the territory formerly called New Plymouth:—

JOHN THACHER, Esq.,||
ISAAC WINSLOW, Esq.,

NATHANIEL PAINE, Esq.,¶
JOHN CUSHING, jun., Esq.

* For the full title, see vol. VII., p. 331.

† Of the new councillors chosen this year (Sergeant, Lynde and Stoddard) Sergeant took the place of Hunt who replaced Walley as councillor at large; Stoddard was chosen at large in place of John Appleton who, in turn, replaced Samuel Legg. Lynde was chosen in place of John Leverett. These changes were the result of the popular opposition to Dudley growing out of his alleged complicity in the illicit trading of the previous year. According to Sewall, Leverett, the Governor's influential friend, received thirty votes as councillor for Maine and twelve votes as councillor at large. Lynde was elected over him by fifty-four votes. The following entry shows how the Governor attempted to procure a reconsideration of the vote by which he lost so valuable an ally in the Council:—

"After Inquiry made by a Message to the House into a Report from one or more of their Members, That (when they came to Vote for a Councillour of the Inhabitants of or Proprietors of Lands within the Territory lying between the River of Sagadahock & Nova Scotia, for which Mr Leveret was chosen & served the last Year,) It was insinuated in the House That he had no Land there; Cpt: Warren & Major Bassett returning Answer from the House That Mr Speaker had strictly examined thereinto, And that all the Members protested That there was no such Thing openly spoken in the House, nor had Influence into their Votes." — *Council Records, vol. VIII., p. 295.*

‡ "Brown," in the Secretary's list.

§ "Partridge," in the Secretary's list.

|| Thacher's name is not subscribed to the qualifying oaths.

¶ "Payne," in the Secretary's list.

Of the inhabitants of, or proprietors of, land within the territory formerly called the Province of Maine: —

ELIAKIM HUTCHINSON, ESQ., BENJAMIN BROWNE, ESQ.,*
 ICHABOD PLAISTED, ESQ.

Of the inhabitants of, or proprietors of, land within the territory lying between the river of Sagadahoc and Nova Scotia: —

JOSEPH LYNDE, ESQ.

For the Province, at large: —

EPHRAIM HUNT, ESQ., SIMEON STODDARD, ESQ.

REPRESENTATIVES OR DEPUTIES.

May 28, 1707 to December 6, 1707.†

JOHN BURRILL, ESQ., SPEAKER.

COUNTY OF SUFFOLK.

Boston, Doctor Thomas Oakes.‡
 Lieut.-Col. Samuel Cheekley, Marblehead,
 Capt. Ephraim Savage, Beverly,
 Mr. Elizur Holyoke. Gloucester,
Roxbury, Mr. William Denison. Topsfield,
Dorchester, Mr. Hopestill Clap. Wenham,
Milton, George Sumner.§ Boxford,
Braintree, Mr. John Webb. Bradford,
Weymouth, Mr. Stephen French. Rowley,
Hingham, Mr. Theophilus Cushing. Newbury,
Dedham, Mr. John Fuller. Salisbury,
Medfield, Mr. Samuel Morse. Amesbury,
Wrentham, Sergeant John Guilde.‖ Andover,
Brookline, Mr. John Winchester. Haverhill,
Mendon, Sergeant William Holbrook.¶

COUNTY OF ESSEX — *Concluded.*

John Burrill, Esq.
 Mr. Richard Trevett.††
 Samuel Balch.‡‡
 Mr. Benjamin Haskell.§§
 Mr. Isaac Peabody.
 Mr. Thomas Patch.
 Lieut. Thomas Perley.||||
 Mr. Richard Kimball.¶¶
 Mr. Ezekiel Jewett.
 Lieut.-Col. Thomas Noyes.
 Esq.***
 Capt. Henry True.
 Mr. Thomas Fowler.†††
 Capt. Christopher Osgood.
 Mr. James Saunders.

COUNTY OF ESSEX.

Salem, Capt. Samuel Gardner,
 Capt. John Browne.**
Ipswich, Mr. Nehemiah Jewett,
 Capt. William Goodhue.

COUNTY OF BRISTOL.

Bristol, Mr. Nathaniel Blagrove.
Richboth, Mr. John Brooks.
Tuulton, Mr. Robert Crosman.†††

* "Brown," in the Secretary's list.

† The General Court was dissolved by proclamation, March 18, 1707-8, after two prorogations. There was no session after December 6, 1707.

‡ "Doctor," and "Okes," in the town records, but "Mr.," in the Secretary's list.

§ He was sworn, but his name is not in the Secretary's list, nor has it been found in the town records.

|| "Sergeant," and "Guild," in the town records, but "Mr.," in the Secretary's list.

¶ "Sergeant," in the town records, but "Mr.," in the Secretary's list.

** "Brown," in the Secretary's list.

†† "Trevett," in the Secretary's list. For the first time, Trevett wrote his name this year with two t's.

‡‡ He was sworn, and his election is shown by the town records, but his name is not in the Secretary's list.

§§ "Haskell," in the Secretary's list and in the town records.

|||| "Lieut.," in the town records, but "Mr.," and "Pearly," in the Secretary's list.

¶¶ "Kimball," in the Secretary's list.

*** "Lieut.-Col.," in the town records, but "Esq.," in the Secretary's list.

††† "Fowler," in the Secretary's list.

††† "Crossman," in the Secretary's list.

COUNTY OF BRISTOL — *Concluded.*

<i>Swanzey,</i>	Mr Joseph Mason.
<i>Little Compton,</i>	Mr. William Fobes.*
<i>Dartmouth,</i>	Mr. John Akin.
<i>Tiverton,</i>	William Almy.†

COUNTY OF MIDDLESEX.

<i>Cambridge,</i>	Capt. Thomas Oliver.
<i>Charlestown,</i>	Capt. Samuel Phipps.‡
<i>Malden,</i>	Mr. John Greenland.
<i>Woburn,</i>	Ensign John Peirce.§
<i>Reading,</i>	Mr. Timothy Wile.||
<i>Watertown,</i>	Jonas Bond, Esq.
<i>Newton,</i>	Mr. John Spring.
<i>Concord,</i>	Capt. Jonathan Prescott.¶
<i>Chelmsford,</i>	Capt. William Tyng.
<i>Billerica,</i>	Mr. John Stearns.**
<i>Sudbury,</i>	Deacon Edmund Rice.††
<i>Sherburne,</i>	Mr. Jonathan Morse.
<i>Marlborough,</i>	Mr. Thomas Beaman.‡‡
<i>Lancaster,</i>	Mr. Thomas Sawyer.

COUNTY OF HAMPSHIRE.

<i>Springfield,</i>	Lieut. Joseph Stebbins.§§
<i>Northampton,</i>	Mr. Thomas Shelden.||||
<i>Hadley,</i>	Mr. John Nash.
<i>Hatfield,</i>	Mr. Eleazar Frary.¶¶

COUNTY OF HAMPSHIRE — *Concluded.*

<i>Suffield,</i>	Mr. Joseph Sheldin.***
<i>Enfield,</i>	Mr. Isaac Meacham.†††

COUNTY OF PLYMOUTH.

<i>Plymouth,</i>	James Warren, Esq.‡‡‡
<i>Scituate,</i>	Mr. Samuel Clap.
<i>Marshfield,</i>	Mr. Samuel Sprague.
<i>Bridgewater,</i>	Deacon William Brett.§§§

COUNTY OF BARNSTABLE.

<i>Barnstable,</i>	Mr. Samuel Chipman.
<i>Sandwich,</i>	Maj. William Bassett.
<i>Yarmouth,</i>	Mr. Elisha Hall.
<i>Eastham,</i>	Mr. Samuel Knowles.

COUNTY OF YORK.

<i>York,</i>	Capt. Lewis Bane.
<i>Kittery,</i>	Capt. John Hill.
<i>Wells,</i>	Mr. William Sayer.

DUKES COUNTY.

<i>Chilmark,</i>	Maj. Benjamin Skiffe.¶¶¶
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ISLAND OF NANTUCKET.

James Coffin ****

JOHN WHITE, *Clerk.*JAMES MAXWELL, *Doorkeeper to the Governor and General Court.*

* The town clerk certifies that by the town records "Colonel Church" appears to have been chosen representative this year; but the Secretary's list shows that "William Fobes" served as deputy, and he subscribed the qualifying oaths.

† From the town records, but he does not appear to have taken or subscribed the qualifying oaths, nor is his name in the Secretary's list.

‡ "Phips," in the Secretary's list.

§ "Ensign," in the town records, but "Mr.," and "Pierce," in the Secretary's list.

|| "Wyley," in the Secretary's list.

¶ "Prescot," in the Secretary's list.

** "Sternes," in the Secretary's list.

†† "Deacon," in the town records, but "Mr.," in the Secretary's list.

‡‡ "Beman," in the town records.

§§ "Lieut.," in the town records, but "Mr.," in the Secretary's list.

|||| "Sheldon," in the Secretary's list.

¶¶ "Frarey," in the Secretary's list.

*** "Sheldon," in the Secretary's list.

††† "Mechamp," in the Secretary's list.

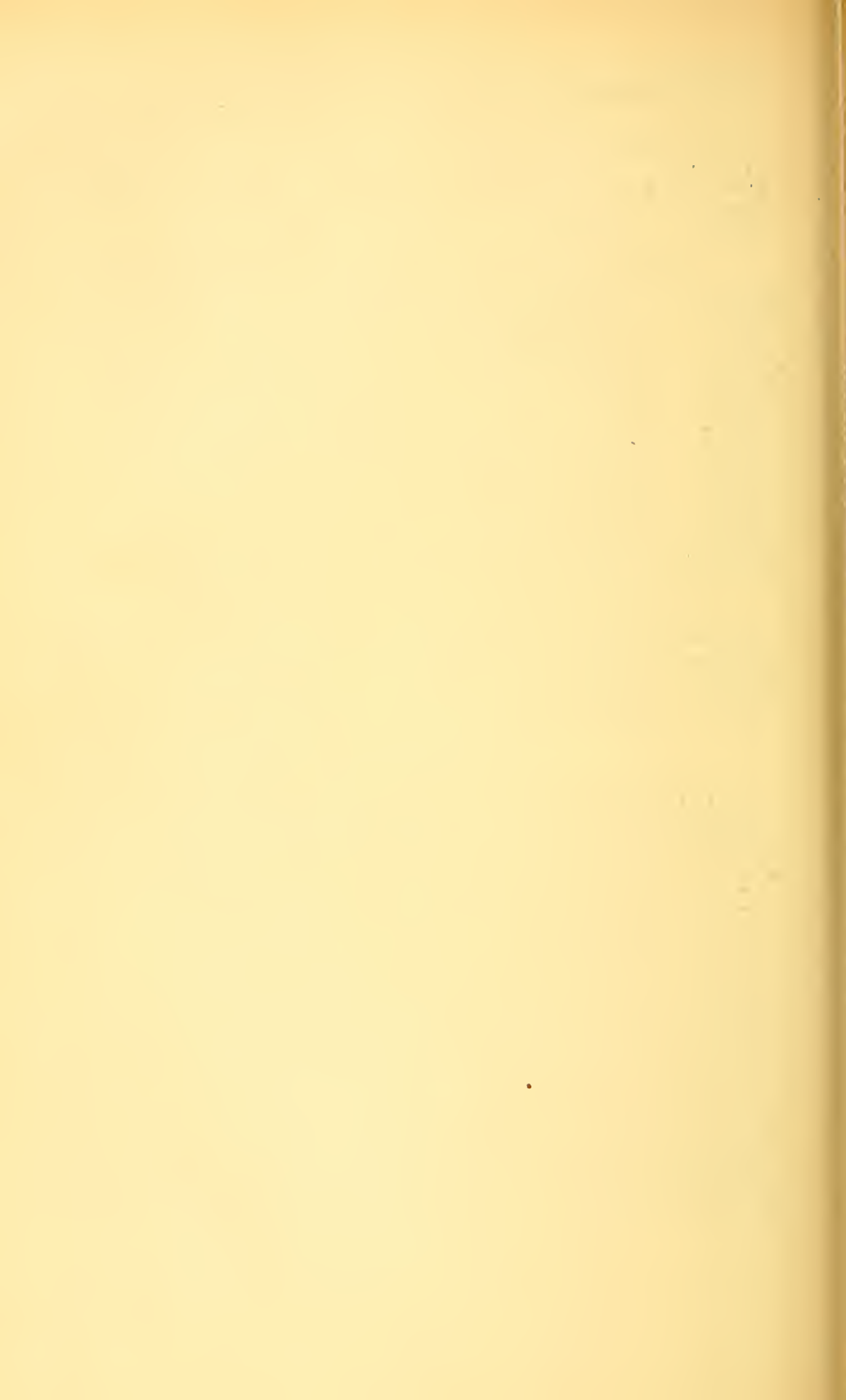
‡‡‡ Erroneously entered "Thomas," in the Secretary's list.

§§§ "Deacon," in the town records, but "Mr.," in the Secretary's list.

||||| Erroneously entered "Sawyer," in the Secretary's list.

¶¶¶ "Skiff," in the town records. In the Secretary's list Skiffe is described as of Dukes County, without specifying the town.

**** He was sworn, and his election is shown by the town records, but his name is not in the Secretary's list.



ORDERS, VOTES AND RESOLVES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-EIGHTH DAY OF MAY, A. D. 1707.

CHAPTER 1.

ORDER APPOINTING A COMMITTEE TO THANK SAMUEL BELCHER FOR HIS ELECTION SERMON AND TO REQUEST A COPY THEREOF FOR THE PRESS.*

Ordered, That Samuel Sewall and Andrew Belcher, Esq^{rs}, return'd† the thanks of the board to M^r Samuel Belcher, minister, for his sermon preach'd yesterday before the gen^l court, and desire a copy thereof for the press. [*Passed May 29.*]

CHAPTER 2.

VOTE DISMISSING THE PETITION OF JOHN USHER, LATE TREASURER OF THE TERRITORY AND DOMINION OF NEW ENGLAND, PRAYING FOR A SETTLEMENT OF THE BALANCE OF HIS ACCOUNT.‡

THE PETITION of John Usher, Esq^r, read yesterday, praying that he may have a final answer to his applications at sev^{al} times made for the payment of the ballance of his accompts, as some time treasurer of the territory and dominion of New England, being one thousand thirty eight pounds eighteen shillings and one penny, as may appear by the report of a committee of both houses the 28th of June, 1704, was again read, as also the report of the comm^{tee} thereon refer'd to, and other papers and votes formerly pass'd relating to that affair, and then, —

Voted, That the following answer be made thereupon; viz., in answer to the within petition of John Usher, Esq^r, grounded upon a mistaken suggestion of the committee's report in 1704, that the sum of one thousand thirty eight pounds eighteen shillings and one penny is due to him for ballance of his accompts; to which answer hath once and again been made, this court having duly consider'd the report of the committee refer'd to in the petition, as also of former committees, upon view and examination of the petitioner's accompts, with the answers given by M^r Usher to the objections against sundry articles and charges therein, do not find anything due to him, and therefore dismiss the petition. [*Passed May 31.*]

* See resolves, 1692-3, chapter 8, and 1693, chapter 1, and notes.

† *Sic.*

‡ See order, 1704-5, chapter 3.

CHAPTER 3.

ORDER FOR NOTIFYING THE TOWN OF SUDBURY TO APPEAR AND ANSWER AT THE NEXT SESSION OF THE GENERAL COURT TO THE PETITION OF THE INHABITANTS ON THE WEST SIDE OF THE GREAT RIVER IN SUDBURY PRAYING TO BE MADE A SEPARATE PRECINCT, ETC.* [*Passed June 4.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 4.

RESOLVE FOR ALLOWING AND PAYING THREE POUNDS OUT OF THE PROVINCE TREASURY TO ARTHUR BEAL OF YORK IN FULL FOR HIS SERVICES IN THE YEAR 1703 IN ATTENDING JOHN HOBBS, A SOLDIER IN THE QUEEN'S SERVICE UNDER THE COMMAND OF LIEUTENANT-COLONEL MARCH.

Resolved That the Sum of Three Pounds be Allowed & Paid out of the publick Treasury, to Arthur Beale the Petitioner, in full for the service done for John Hobbs the Sick Souldier above mentioned. [*Approved June 4.*]

CHAPTER 5.

ORDER FOR ERECTING A TRACT OF LAND IN THE SOUTH-WESTERLY PART OF THE TOWNSHIP OF PLYMOUTH INTO A TOWNSHIP BY THE NAME OF PLYMPTON, ETC. [*Approved June 5.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 6.

RESOLVE FOR ALLOWING AND PAYING TWENTY SHILLINGS OUT OF THE PROVINCE TREASURY TO NATHANIEL HEALY OF NEWTON, IN FULL FOR A GUN CARRIED OFF BY THE INDIANS WHEN THEY SLEW HIS SON NATHANIEL, AT GROTON, WHO WAS A SOLDIER IN THE QUEEN'S SERVICE UNDER CAPTAIN JOSIAH PARKER.

Resolved That the Sum of Twenty shillings be Allowed, & Paid out of the publick Treasury to Nath^l Healy the Petitioner in full for the Gun above mentioned [*Approved June 5.*]

* See chapters 34 and 37, *post*.

CHAPTER 7.

RESOLVE FOR ALLOWING AND PAYING TWENTY SHILLINGS OUT OF THE PROVINCE TREASURY TO ROBERT LEWIS, A PRIVATE SENTINEL WOUNDED IN THE KING'S SERVICE UNDER THE GOVERNMENT OF SIR EDMUND ANDROS, ETC., IN FULL FOR HIS PAY AND LOSS OF TIME.

Resolved That the sum of Twenty shillings, be Allowed, & Paid out of the publick Treasury to Robert Lewis the Petitioner in full [*Approved June 5.*

CHAPTER 8.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS SEVEN SHILLINGS AND SIXPENCE TO DANIEL WILLARD, KEEPER OF THE PRISON IN BOSTON, IN FULL FOR KEEPING THOMAS ODELL, A PRISONER, FROM NOVEMBER 4, 1705, TO JUNE 3, 1707.

Resolved — That the sum of Ten pounds, seven shillings, & six pence, be Allowed & Paid out of the Publick Treasury, to Daniel Willard in full for his keeping the within mentioned Odell, to the third instant, being at two shillings & six pence *p* week [*Approved June 5.*

CHAPTER 9.

ORDER APPOINTING A HEARING AT THE NEXT SESSION OF THE GENERAL COURT ON THE PETITION OF PHILIP ENGLISH OF SALEM PRAYING RELIEF FROM A JUDGMENT AFFIRMED AGAINST HIM, ON APPEAL, IN FAVOR OF NICHOLAS ANDREWS, PLAINTIFF AND APPELLEE, BY THE SUPERIOR COURT OF JUDICATURE; AND FOR A STAY OF EXECUTION IN THE MEAN TIME, ETC.*

A PETITION of Philip English of Salem, praying relief against a judgement affirm'd against him in the superior court, held at Salem, within the county of Essex, in November past, at the suit of Nicholas Andrews, and that execution may be staid, was read, and, —

Ordered, That the petitioner cause the adverse party to be served with a copy of the petition, and that he have liberty to be heard the last Tuesday of the next session of this court, and that execution be staid in the mean time. [*Approved June 6.*

CHAPTER 10.

VOTE FOR ALLOWING AND APPROVING THE PROVINCE TREASURER'S ACCOUNTS FROM MAY 31, 1706, TO MAY 29, 1707

THE ACCOMPTS of M^r James Taylor Treasurer & Receiver General of this Province beginning the 31th day of May 1706. and continued

* See order, 1706-7, chapter 66.

unto the 29th of May 1707. Amounting unto the sum of Forty Six thousand Six hundred & three Pounds twelve Shillings & ten pence haveing been presented and laid before the house of Representatives and inspected by said house By which it appeares there was standing Out on the s^d 29th day of May of the Several Assesments Ten Thousand Seven hundred fifty five Pounds Eleven Shillings and Six pence Of y^e Duty's of Impost &cⁱ (as by Accompt rec^d from Jn^o Walley Esq^r Late Commission^r) Sixty Pounds as also Powder in y^e hands of James Russel Esq^r Commiss^r of Impost (as by an Accompt rec^d from him) to the vullue of Three hundred Sixty two Pounds five Shillings to be drawn into the Treasury and further to be Accompted for.

Voted. That the said Accompts in the Several Articles of Receipts and payments therein mentioned amounting unto the sum of Thirty five thousand four hundred twenty five Pounds Sixteen Shillings & four pence be and hereby are approved & Allowed of. And the said Treasurer is hereby discharged of the said sum of Thirty five thousand four hundred twenty five Pounds Sixteen Shillings & four pence [*Approved June 6.*]

CHAPTER 11.

ORDER AUTHORIZING DANIEL POWNING AND MARY BRIDGHAM, A MINOR, BOTH OF BOSTON, TO SELL HER INTEREST IN CERTAIN REAL ESTATE OF HER FATHER JONATHAN BRIDGHAM, LATE OF BOSTON, DECEASED.

IN ANSWER to the petition of Daniel Powning of Boston, and his neice, Mary Bridgeham, daughter of Jonathan Bridgham, late of Boston, tanner, dec^d, for whom he is guardian, now about nineteen years of age, praying that he may be enabled by an order of this court, together with the said Mary, to make sale of her share and interest in a certain parcel of land or tanyard scituat in Boston, aforesaid, and to execute a good and sufficient conveyance in the law for the same, —

Ordered That the Prayer of this Pet^{con} be Granted, And the Pet^{rs} are Impowred to make Sale of the s^d Mary's Share and part in the Land or Tanyard above mentioned, And to Execute a good & Sufficient conveyance in the Law for the same, the said Mary being within age notwithstanding. — [*Approved June 9.*]

CHAPTER 12.

ORDER APPOINTING A COMMITTEE TO VIEW THE LANDS IN CONTROVERSY BETWEEN THE TOWNS OF TOPSFIELD AND BOXFORD AND TO MAKE REPORT TO THE GENERAL COURT WHERE IT IS MOST CONVENIENT TO RUN THE LINES BETWEEN SAID TOWNS, ETC.* [*Approved June 9.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* See chapter 82, *post*, and order, 1706-7, chapter 108.

CHAPTER 13.

ORDER FOR GRANTING THE PETITION OF THE INHABITANTS OF LONG-MEADOW, IN SPRINGFIELD, PRAYING TO BE MADE A SEPARATE PRECINCT, PROVIDED THE NUMBER OF FAMILIES BE INCREASED TO FORTY WITHIN THREE YEARS, AND THAT THEY SUBSCRIBE FIFTY POUNDS PER ANNUM FOR THE SUPPORT OF A MINISTER, ETC.*

[*Approved June 9.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 14.

RESOLVE FOR ALLOWING AND PAYING THREE HUNDRED POUNDS TO JOSEPH DUDLEY FOR HIS SERVICES AS GOVERNOR, ETC.

Resolved, That the sum of three hundred pounds be allowed and paid out of the publick treasury to his excellency Joseph Dudley, Esq^r, captain-general and governour-in-chief of this her majestie's province, for his support in managing the publick affairs of the government.

[*Approved June 12.*]

CHAPTER 15.

RESOLVE FOR PRINTING SIX THOUSAND POUNDS AND EMITTING TEN THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT; AND FOR GRANTING A TAX OF TEN THOUSAND POUNDS. [*Approved June† 12.*]

[*Printed in the notes to the acts of the year 1707.*]

CHAPTER 16.

ORDER REQUESTING THE GOVERNOR TO FORWARD BY A SHALLOP, OR SOME OTHER FIT VESSEL, WITH OARS, DUPLICATES OF HIS LAST LETTERS TO THE OFFICERS AT PORT ROYAL, AND TO ORDER THE FRIGATE AND PROVINCE GALLEY TO CONVOY THE TRANSPORTS OF HEAVY ARTILLERY, ETC., AND TO ASSIST IN TAKING THE FORT, ETC.

Ordered That his Excellency the Governour be Desired, to forward, Duplicates, of his last Letters, to the Officers, at Port Royall, by a shallop, or some other fit vessel, with oars, that they may not faile of his Commands

And Give order that the ffrigate, & Province Galley, do Convoy, & Cover the vessels that may be Improved to Transport the great Artillery above the ffort. And also to Lie before the ffort, & Assist in Taking it, If the Councill of war shall Determine to Attempt it. [*Passed June 13.*]

* See order, 1706-7, chapter 91.

† Erroneously written "July" in the archives.

CHAPTER 17.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS EACH TO SAMUEL SEWALL, JOHN HATHORNE, JOHN WALLEY AND JOHN LEVERET, JUSTICES OF THE SUPERIOR COURT, ETC., FOR THEIR SERVICES FOR THE YEAR ENDING JULY 10, 1707.

Resolved, That there be allowed and paid out of the publick treasury to the Hon^{ble}. Samuel Sewall, John Hathorne, John Walley and John Leveret, Esq^{rs}., judges of the superiour court of judicature, to each of them the sum of forty pounds for their service the year curr^t., expiring the tenth day of next month. [*Approved June 13.*]

CHAPTER 18.

RESOLVE FOR ALLOWING AND PAYING SEVENTY POUNDS TO JAMES RUSSELL FOR HIS SERVICES AS COMMISSIONER OF THE IMPOST DURING THE PAST YEAR.

Resolved, That the sum of seventy pounds be allowed and paid out of the publick treasury to James Russell, Esq^r., commiss^r of impost, for his service the year past. [*Approved June 13.*]

CHAPTER 19.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED AND TWENTY-FIVE POUNDS TO JAMES TAYLOR, TREASURER OF THE PROVINCE, FOR HIS SERVICES DURING THE PAST YEAR.

Resolved, That the sum of two hundred twenty and five pounds be allow'd and paid out of the publick treasury to M^r. James Taylour, treas^r of this province, for his service in the s^d office the year past. [*Approved June 13.*]

CHAPTER 20.

RESOLVE FOR ALLOWING AND PAYING FIFTEEN POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, IN PART FOR HIS SERVICES DURING THE CURRENT YEAR.

Resolved, That the sum of fifteen pounds be allow'd and paid out of the publick treasury to John White, clerk of this house, in part for his service the year currant. [*Concurred in by the Council, and approved June 13.*]

CHAPTER 21.

RESOLVE FOR ALLOWING AND PAYING THIRTY POUNDS TO JAMES MAXWELL FOR HIS SERVICES AS DOORKEEPER TO THE GOVERNOR AND GENERAL COURT FOR THE YEAR ENDING JUNE 8, 1707.

Resolved, That the sum of thirty pounds be allowed and paid out of the publick treasury to M^r James Maxwell, doorkeeper to his excy. the govern^r and this court, for his service the year past, ending the eighth day of the present month. [*Approved June 13.*]

CHAPTER 22.

RESOLVE FOR ALLOWING AND PAYING THIRTY POUNDS OUT OF THE PROVINCE TREASURY TOWARDS BUILDING THE PORTION OF THE GENERAL FORTIFICATIONS AT DEERFIELD WHICH FALLS TO THE SHARE OF THE POOR OF THAT TOWN AND TO SUCH AS ARE RETURNED FROM CAPTIVITY, ETC.

Resolved — That the sum of Thirty Pounds be allowed & Paid out of the Publick Treasury towards the Building of that Part of the General fortification that falls to the share of the Poor, of Deerfield, & such as are return'd from Captivity, to be paid, to, & Laid out by the Hon^{ble} Sam^l Partridge Esq^r for the use afores^d [*Approved June 13.*]

CHAPTER 23.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL PARTRIDGE FOR HIS SERVICES IN TAKING CHARGE, ETC., OF THE AMMUNITION, PROVISIONS, ETC., OF THE FORCES POSTED IN THE COUNTY OF HAMPSHIRE, ETC.

Resolved, That the sum of twenty pounds be allowed and paid out of the publick treasury to the Hon^{ble}. Samuel Partridge, Esq^r, in consideration of his good service in taking the care, disposing and keeping the accompts of the ammunition, provisions and cloathing to the forces posted in the county of West Hampshire, and in improving the regiment of the county, as occasion calls for. [*Approved June 13.*]

CHAPTER 24.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO THOMAS OAKES, FOR HIS SERVICES, ETC., WHILE AGENT FOR THE COLONY, IN ENGLAND.

It APPEARING to this Court, That the Memorialist, M^r Thomas Oakes, Subsisted himself in England, at his own charge, by the space of two Years, during his residence, there in the publick Service.

Resolved — That the sum of Two Hundred Pounds, be Allowed, & Paid him out of the publick Treasury in full Consideration thereof, [*Approved June 13.*]

CHAPTER 25.

ORDER AUTHORIZING THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE COUNCIL, TO TRANSPORT FORCES, AMMUNITION, ETC., TO NOVA SCOTIA, IN THE RECESS OF THE GENERAL ASSEMBLY.

IN CONSIDERATION That the forces in Nova Scotia, may stand in need of an Inforcement of Men, Shipping, Supplies of Provisions, ammunition or other stores of War, during the Recess of this Court, and before the next session thereof

Ordered — That It be left, with his Excellency the Governour, by and with the advice & Consent of the Councill in the Recess as afores^d to Send one hundred volunteers for land force, with a good ship well man'd, equip't, & fitted for war, Provisions, for a Thousand men forty two Daies, & such a quantity of ammunition, & other stores of War, as They shall understand shall be needfull. or a lesser number of men, & proportion of Provisions & stores, as the occasion shall require [*Approved June 13.*]

CHAPTER 26.

ORDER FOR PAYING OUT OF THE PROVINCE TREASURY FOR SNOW-SHOES AND MOCCASINS, PROCURED FOR THEMSELVES BY CERTAIN PERSONS IN KITTERY, BERWICK, WESTFIELD, AND ON THE WEST SIDE OF THE RIVER IN SPRINGFIELD.

THE FOUR SEVERAL LISTS of the names of persons within the towns and precincts of Kittery, Newichawonnock *alias* Berwick, Westfield and the inhabitants on the west side of the river in Springfield that are provided with snow-shoes and moggasins as the law directts, sent up from the represent^{ves} with the vote of that house thereon; viz., —

Ordered, That the snow-shoes and moggasins mention'd in the said lists be paid for out of the publick tax levied this session as the law directts, altho' the time wherein the said lists should have been brought in is lapsed; w^{ch} order was read at the board and voted a concurrence. [*Approved June 13.*]

ORDERS AND RESOLVE

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTEENTH DAY OF AUGUST, A. D. 1707.

CHAPTER 27.

ORDER ADVISING THAT ALL THE DESERTERS, TOGETHER WITH THIRTY MEN FROM THE CASTLE AND FORTY FROM THE FRONTIERS, WITH THE VOLUNTEERS FROM RHODE ISLAND, BE FORTHWITH ARMED AND EQUIPPED, AND SENT IN THE SHIP SWALLOW'S PRIZE AND OTHER VESSELS, WITH ONE SLOOP FROM RHODE ISLAND, TO JOIN THE FORCES AT NOVA SCOTIA; AND THAT THE CHARGE OF THE SLOOP AND MEN FROM RHODE ISLAND BE BORNE BY THIS PROVINCE.

In the House of Representatives. Aug: 14: 1707

Ordered — That a Message be sent up to the Board, That this House is of advice that all the Deserters, thirty men from the Castle, forty of the standing forces in the frontiers, with those that shall be Rais'd, at Rhode-Island, & Offer themselves voluntarily in this Province, be forthwith fitted in all Points, Imbark'd, on her majesties ship the Swallow Prize, & such other vessels as are now in the service, with one sloop from Rhode-Island, for Major Wanton & Company. & sent to Joine the forces at Nova Scotia, the charge of the men & sloop that shall now come from Rhode Island, to be born by this Province

Sent up for Concurrence.

JOHN BURRILL *Speak*^r

In Council. — *Die p̄dict.*

Read and concurr'd.

Is^a ADDINGTON *Sec^{ry}*. —

[*Passed August 14.*

CHAPTER 28.

ORDER FOR A MESSAGE FROM THE REPRESENTATIVES REQUESTING THE GOVERNOR TO SEND ORDERS TO THE COMMISSIONERS IN COMMAND OF THE FORCES AT NOVA SCOTIA TO DEMOLISH THE FORT AT PORT ROYAL IF THE SAME BE TAKEN, ETC.

In the House of Representatives. Aug: 15: 1707.

Ordered — That a Message, be sent up to the Board, That this House humbly desire his Excellency, that positive Orders be sent to the Commiss^{rs} in Command of the forces gone to Nova-Scotia, That If by any means, the fort at Port-Royall, be or shall be taken by them, It be forthwith Demolished.

And It is further humbly offered to his Excellency, To Commit it to the Prudence, and Discretion, of the s^d Commiss^{rs} whether to Take the Ground or no, (if not already done) according as they find the Condition of our forces, & the Enemy however that they pursue his Excellency's other orders, to do all the Damage they can to the Enemy & so Return home

JOHN BURRILL, *Speak*^r

[*Concurred in by the Council, and passed August 15.*

CHAPTER 29.

RESOLVE* DECLARING THAT THE SIXTH SECTION OF THE ACT FOR REGULATING OF TOWNSHIPS, ETC., REFERS TO TOWN AND COUNTY ASSESSMENTS, BOTH FOR PERSONS AND ESTATES; AND THAT REAL ESTATE IS TO BE ASSESSED TO THE TENANTS OR OCCUPANTS THEREOF, ONLY, UNDER THE SAME PROVISIONS RESPECTING LANDLORDS AND TENANTS, AS THE LAW DIRECTS FOR PROVINCE TAXES.

Resolved That the said Paragraph doth equally refer to Town and County Assessments both for persons and Estates, and that the Tenants or Occupants of Houseing and Lands and no others are to be assessed for the same, as the Law directs, for Province Taxes, under the like provision betwixt Landlords and Tenants; [*Approved August 16.*]

CHAPTER 30.

ORDER FOR REISSUING TWO THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT OF THE FORMER ISSUE IN CASE THAT AMOUNT OF THE NEW BILLS IS NOT READY FOR EMISSION. [*Approved August 16.*]

[*Printed in the notes to the acts of the year 1707.*]

CHAPTER 31.

ORDER DIRECTING THE PROVINCE TREASURER TO EXCHANGE WITH JONAS BOND, FOR ONE UNENDORSED BILL OF CREDIT OF FIVE SHILLINGS ON THE LATE COLONY OF THE MASSACHUSETTS BAY, A BILL OF THIS PROVINCE OF LIKE VALUE.

Ordered, That the treasurer be directed to receive of Jonas Bond, Esq^r, the five shilling bill of credit upon the late colony of the Massachusetts Bay hereto annex'd, not endorsed by the treasurer, and to give him a bill of credit upon this province of like value for the same. [*Approved August 16.*]

CHAPTER 32.

ORDER DIRECTING THE COMMISSARY-GENERAL TO PROVIDE SMALL ARMS FOR RECRUITS, TO FORWARD PROVISIONS FOR THIRTEEN HUNDRED MEN FOR TWENTY-EIGHT DAYS BEYOND THE THIRTY DAYS ALREADY PROVIDED FOR, AND TO FURNISH CLOTHING AND NECESSARIES FOR THE SICK AND WOUNDED SOLDIERS AND OTHER STORES FOR THE FORCES AT NOVA SCOTIA.

Ordered — That the Commiss^y Generall be Directed, to Provide Small Arms, for the men to be now raised so far as wanted, And to Provide, & forward Provisions for thirteen hundred men, twenty eight Daies, over and above the thirty Daies Provisions last ordered, Clothing, necessaries for sick & wounded, & what other stores shall be found needfull for the forces at Nova Scotia. [*Approved August 16.*]

* Printed also in the note to the act of November 16, 1692; see chapter 88, *post*.

ORDERS, VOTES AND RESOLVES

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-NINTH DAY OF OCTOBER, A. D. 1707.

CHAPTER 33.

ORDER APPOINTING A JOINT COMMITTEE* TO CONSIDER THE ANCIENT RECORDS OF LINES AND BOUNDARIES BETWEEN THE LATE COLONY OF THE MASSACHUSETTS BAY AND THE COLONY OF CONNECTICUT, AND THE LATE COLONY OF NEW PLYMOUTH AND THE COLONY OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, AND TO PROPOSE METHODS TO COMPROMISE AND SETTLE DISPUTES RELATING THERE- TO BETWEEN THE GOVERNMENTS OF THE ADJACENT TERRITORIES; SAID COMMITTEE TO REPORT† AS SOON AS MAY BE TO THE GENERAL COURT DURING THE PRESENT SESSION. [*Passed October 30.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 34.

VOTE APPOINTING A HEARING ON THE PETITION OF THE INHABITANTS ON THE WEST SIDE OF THE GREAT RIVER IN SUDBURY PRAYING TO BE MADE A SEPARATE PRECINCT‡ [*Passed October 30.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 35.

ORDER APPOINTING A HEARING UPON THE PETITION OF THE PROPRIETORS AND FREEHOLDERS OF THE TOWNSHIP OF WENHAM, PRAYING FOR A SETTLEMENT OF THEIR DIFFERENCES ABOUT THE DIVISION OF THEIR COMMON LANDS, CONTESTED BY JOSEPH FOWLER, AND FOR NOTIFYING SAID FOWLER THEREOF.§ [*Passed October 31.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* See order, 1706-7, chapter 99.

† See chapters 41 and 68, *post*.

‡ See chapters 3, *ante*, and 37, *post*.

§ See chapters 45 and 56, *post*.

CHAPTER 36.

ORDER APPOINTING A HEARING ON THE PETITION OF MEMBERS OF THE SOUTH CHURCH IN BRAINTREE, ETC., PRAYING FOR A SEPARATE PRECINCT, AND FOR NOTIFYING THE SELECTMEN OF SAID TOWN, ETC.* [*Passed October 31.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 37.

ORDER APPOINTING A COMMITTEE TO VIEW THE PREMISES AND HEAR THE PARTIES INTERESTED IN THE PETITION OF THE INHABITANTS OF THE WEST SIDE OF SUDBURY GREAT RIVER, PRAYING TO BE MADE A SEPARATE PRECINCT, ETC.; SAID COMMITTEE TO REPORT THEREON, ETC.† [*Approved November 1.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 38.

RESOLVE FOR ALLOWING OUT OF THE PROVINCE TREASURY TO JOHN SHILDEN SEVEN HUNDRED LIVRES FOR HIS EXPENSES AND FIFTY POUNDS FOR HIS SERVICES AS MESSENGER TO CANADA; ALSO SEVENTEEN POUNDS EACH TO THE THREE PERSONS THAT WENT WITH HIM ON SAID SERVICE, ETC.

THE FOLLOWING ORDER, pass'd in the house of represent^{res.} upon the petition of John Shelden, late messenger to Canada, was read and agreed to; viz., —

Resolved — that the Petitioner's acc^t herewith Presented, viz; seven hundred Livres, amounting to fifty eight, Pounds, sixteen shillings, & eight pence, be allowed out of the Province Treasury,

And for his Time & Service, in the affair within mentioned, the sum of fifty Pounds, of which he is Paid Thirteen Pounds, twelve shillings by a muletto.

And to each the three Persons that went with him, seventeen Pounds apiece. [*Approved November 1.*]

CHAPTER 39.

ORDER APPOINTING A COMMITTEE TO HEAR THE PARTIES INTERESTED IN THE PETITION OF JOHN ASLEBEE AND OTHERS OF ANDOVER IN REGARD TO THE LOCATION OF THEIR MEETING-HOUSE; SAID COMMITTEE TO REPORT THEREON, ETC. [*Approved November 3.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* See chapters 51 and 65, *post*.

† See chapters 3 and 34, *ante*.

CHAPTER 40.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL SPRAGUE OF DUXBURY, LIEUTENANT UNDER CAPTAIN STEPHEN OTIS IN THE EXPEDITION TO NOVA SCOTIA, FOR HIS SUFFERINGS, EXPENSE, ETC., OCCASIONED BY A WOUND RECEIVED IN SAID EXPEDITION.

UPON READING a petition of Sam^l. Sprague of Duxbury, Lieut. to Cpt. Stephen Otis in the expedition to L'Acadie, etc., and wounded in her Maj^{ties} service, with the resolve pass'd thereupon in the house of represent^{ves}.; viz., —

Resolved — That the Sum of Ten Pounds be Allowed, & Paid out of the publick Treasury to Samuel Sprague the Petitioner, in full for his Smart, Money, Cure, & Losse of time. [*Concurred in by the Council, and approved November 3.*]

CHAPTER 41.

RESOLVE DIRECTING THAT THE PERSONS APPOINTED BY RHODE ISLAND TO RENEW THE BOUNDS BETWEEN THIS PROVINCE AND THAT COLONY BE RELEASED FROM THEIR RECOGNIZANCE; AND SUGGESTING THE RELEASE OF THE PERSONS FROM THIS PROVINCE SIMILARLY HELD BY THE GOVERNMENT OF SAID COLONY.*

UPON A MOTION from the gen^l. assembly of the colony of Rhoad Island, etc., by their letter of the 29th of October past, proposing that there be committees appointed by both governments for the renewal of the bounds betwixt this province and that colony; also recommending it, that the persons of each government bound over to answer for trespasses committed be discharged, —

Resolved, That the persons belonging to Rhodé Island, being under recognizance to her majesties courts here on the head abovesaid, be discharged, in confidence that the governm^t there will do the like by ours, and her maj^{ties} justices of the courts within this province are directed accordingly. [*Approved November 4.*]

CHAPTER 42.

RESOLVE FOR ABATING AND REMITTING THE IMPOST ON EIGHTEEN PIPES OF DECAYED WINES IMPORTED BY THOMAS PALMER ON THE KETCH FREKE, FROM THE WESTERN ISLANDS, JOHN RAYNER, MASTER.

THE PETITION of Thomas Palmer, Esq^r., read yesterday and sent down, praying that the commissioner for impost may be ordered to rebate and pay back to him the rates and duties paid for eighteen pipes of decayed wines of the western islands, imported on the ketch Freeke, John Rayner, master, sent up from the represent^{ves}. with the resolve of that house pass'd thereon; viz., —

Resolved — That the Praier of the Petition on the other side be granted, & order given to the Commission^{rs} of Impost accordingly. [*Concurred in by the Council, and approved November 5.*]

* See chapters 33, *ante*, and 68, *post*.

CHAPTER 43.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF DEERFIELD TOWARDS THE MAINTENANCE OF THE MINISTRY THERE, DURING THE YEAR COMMENCING DECEMBER 6, 1707.

THE PETITION of the town of Deerfield, read yesterday and sent down, praying for the continuation of an allowance towards the support of the minister, sent up again from the representatives with the resolve of that house pass'd thereon; viz., —

Resolved — That the Sum of Twenty pounds be allowed, & Paid out of the publick Treasury towards the support of the ministry in the Town of Deerfield the year ensuing beginning the 6th day of Decem^r next. [*Concurred in by the Council, and approved November 5.*]

CHAPTER 44.

ORDER FOR ALLOWING AND SUPPLYING OUT OF THE PUBLIC STORES A BARREL OF POWDER AND TWO HUNDRED WEIGHT OF SHOT TO EACH OF THE TOWNS OF WELLS AND YORK.

UPON THE PETITION of William Sawyer and Lewis Bane, represent^{ves}. of the towns of Wells and York, the following order pass'd in the house of represent^{ves}. was read and concur'd; viz., —

Ordered That a barrel of Powder & two hundred weight of Shot be allowed, & supplied out of the publick stores, to each of the s^d Towns. [*Approved November 5.*]

CHAPTER 45.

VOTE POSTPONING THE HEARING UPON THE PETITION OF THE FREEHOLDERS OF THE TOWN OF WENHAM, ASSIGNED FOR THIS DAY, UNTIL FRIDAY, NOVEMBER 14, 1707.* [*Passed November 7.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 46.

ORDER APPOINTING A HEARING, AT THE NEXT SESSION OF THE GENERAL COURT, OF THE TOWN OF REHOBOTH, IN REGARD TO THE ENLARGEMENT OF THE BOUNDS OF ATTLEBOROUGH, ETC. [*Approved November 8.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* See chapters 45, *ante*, and 56, *post*.

CHAPTER 47.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO WILLIAM BEAL OF YORK, A SOLDIER WHO LOST THE USE OF HIS ARM WHILE IN THE KING'S SERVICE.

UPON A PETITION of William Beal of York setting forth that he hath in a great measure lost the use of one of his arms by a hurt he hath received in the countrey's service and been at considerable charge for cure, —

Resolved — That the sum of Twenty Pounds, be Allowed & Paid, out of the publick Treasury, to William Beale the Petitioner, in full Compensation, for Payment of the Doctor Losse of time, & other Expences he hath been at with respect to the Damage he sustained in that Post. [*Approved November 13.*]

CHAPTER 48.

VOTE ACCEPTING THE REPORT OF THE SURVEYORS* APPOINTED TO LAY OUT TO FRANCIS COLLINS OF LONDON, FIVE HUNDRED ACRES OF LAND IN THE NIPMUCK COUNTRY WHICH WERE GRANTED BY THE GENERAL COURT, IN 1683, TO HIS FATHER, JOHN COLLINS, LATE OF LONDON, DECEASED. [*Approved November 14.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 49.

RESOLVE FOR ALLOWING AND PAYING FORTY POUNDS OUT OF THE PROVINCE TREASURY, TO BE EQUALLY DISTRIBUTED AMONG JOHNSON HARMON, LIEUTENANT AUSTIN, JOSIAH BLACK, JOHN HARMON, JOHN COLE, TIMOTHY DAY, NICHOLAS CANE AND THOMAS MORE, ALL OF YORK, FOR THE LOSS OF THEIR CLOTHES, ETC., IN A FIGHT WITH THE INDIANS AT WINTER HARBOR; ALSO TEN POUNDS TO THE WIDOW OF BENJAMIN DONNELL, OF THE SAME COMPANY, SLAIN IN SAID FIGHT.

UPON READING a petition prefer'd by Johnson Harman, L^t Austin, Josiah Black, John Harman, John Cole, Timothy Day, Nicholas Cane, and Thomas Moor, all of York, praying an allowance for the loss of their cloaths, etc., in a late engagement with a body of Indians at Winter Harbour, and on behalf of the widow and children of Benj^a Donnel, one of their company, who was slain in the said engagement, divers of the Indians being by them kill'd, —

Resolved — That the sum of Forty Pounds be Allowed and Paid out of the publick Treasury, to the Petitioners, to be eqvally divided amongst them, And the sum of Ten Pounds, to the Widow, relict, of Benj^a Donnel slain in the Action. [*Approved November 14.*]

* See order, 1705-6, chapter 23.

CHAPTER 50.

ORDER APPOINTING A COMMITTEE TO VIEW THE BRIDGES IN THE TOWN OF CONCORD, AND TO REPORT WHETHER THE CHARGES ARE NOT MORE THAN THE SAID TOWN SHOULD BEAR, ETC.

UPON READING a petition of the selectmen of Concord, in behalf of the said town, setting forth that they are extraordinarily burthen'd by the sole maintenance of three very costly bridges over great and peevish rivers in the said town, tho' all of great use both to the county and countrey, praying that a committee may be appointed and impowered to examin therinto, and to order some way for their ease, —

In the House of Representatives Nov^r 13: 1707

Ordered — That at the Cost of the Petitioners, there be Persons Appointed to view the s^d Bridges, & Consid^r their Cost, whether the charge be not more that s^d Town bears than they ought, considering the s^d Bridges are Improved for the Province, & County, & make Report thereof to this Court, that relief may be afforded to them if there be reason for it.

Sent up for Concurrence.

JOHN BURRILL *Speak^r*

Die Predict The Councill Agre to the Abovesaid vote and desire that p^{rs}ons may be named Accordingly./—

voted in Councill

JA: RUSSELL* p ORDER

In the House of Representatives Nov^r 14th 1707

Ordered — That M^r Speaker Capt Sammel Gardner, & M^r John Sternes be a Committee to Joine with such as the Hon^{ble} Board shall Appoint for the affair abovementioned.

Sent up for Concurrence.

JOHN BURRILL *Speak^r*

Consented to by the Councill and Coll Penn Townsend & Coll Ephraim Hunt ar appointed to Joine wth the Abovesd p^{rs}ons & Coll Townsend to Appoint time and place of Meeting

Boston y^e 14th Nouemb^r 1707

JA: RUSSELL* p ord^r

[*Approved November 14.*]

CHAPTER 51.

ORDER FOR REVIVING THE VOTE OF THE THIRTY-FIRST OF OCTOBER, WHICH HAD LAPSED, APPOINTING A HEARING ON THE PETITION OF THE SOUTH CHURCH IN BRAINTREE, AND APPOINTING THE NINETEENTH OF NOVEMBER FOR THAT PURPOSE, THE PETITIONERS TO NOTIFY THE ADVERSE PARTY THEREOF.† [*Passed November 14.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* Russell, who was a member of the Council, appears to have acted for the Secretary in this matter.

† See chapters 36, *ante*, and 65, *post*.

CHAPTER 52.

VOTE ACCEPTING THE REPORT OF JOHN CHANDLER, SURVEYOR,* EMPLOYED TO SURVEY ONE THOUSAND ACRES OF LAND FOR MAJOR WILLIAM WHITING OF HARTFORD, WHICH WAS GRANTED TO HIS FATHER, JOHN WHITING, BY THE LATE COLONY OF THE MASSACHUSETTS BAY IN 1684, IN BEHALF OF HIMSELF AND THE REST OF THE CHILDREN OF WILLIAM WHITING, GRANDFATHER OF MAJOR WILLIAM WHITING. [*Approved November 15.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 53.

RESOLVE FOR ALLOWING AND PAYING FORTY SHILLINGS OUT OF THE PROVINCE TREASURY TO HENRY SEAGER OF NEWTON, FOR ARMS, ETC., LOST BY HIS TWO SONS WHO WERE IMPRESSED INTO THE SERVICE.

UPON THE PETITION of Henry Seager of Newton, praying allowance for arms, etc., lost by his two sons who were impressed into the country's service, at Groton, in the summer of 1706, one of whom was killed and the other captured by the enemy,†—

Resolved—That the sum of forty shillings be Allowed, & Paid, out of the publick Treasury to Henry Seager the Petitioner. [*Approved November 15.*]

CHAPTER 54.

RESOLVE FOR ALLOWING AND PAYING TEN POUNDS OUT OF THE PROVINCE TREASURY TO HUGH PIKE, ENSIGN UNDER MAJOR SHADRACH WALTON IN THE LATE EXPEDITION TO NOVA SCOTIA, ON ACCOUNT OF A WOUND RECEIVED IN HIS THIGH ON SAID EXPEDITION.

UPON READING a petition of Hugh Pike, ensign under Major Walton in the late expedition to Nova Scotia, praying allowance for smart money for his present relief and a stipend, having his thigh broken by a shot,—

Resolved—That the sum of Ten Pounds be allowed & Paid, to Hugh Pike the Petitioner, for smart-money, & present Relief to his ifamily. out of the publick Treasury [*Approved November 15.*]

* See order, 1700-1, chapter 10.

† This preamble was prepared by the editor, to make the order intelligible without printing the petition in full.

CHAPTER 55.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THE TOWN OF BROOKFIELD TOWARDS THE MAINTENANCE OF THE MINISTRY THERE DURING THE YEAR BEGINNING NOVEMBER 7, 1707, ETC.

UPON READING a petition of the inhabitants of Brookfield, praying some help towards the support of a minister in the said town, —

Resolved — That the sum of Twenty Pounds be allowed & Paid out of the Publick Treasury towards maintaining a minister in the s^d Town the year currant, beginning the 7th inst^d Provided such minister be Approved, by the ministers of the three next neighbouring Towns. [*Approved November 15.*]

CHAPTER 56.

ORDER FOR ALLOWING THE PROPRIETORS AND FREEHOLDERS OF THE TOWNSHIP OF WENHAM, TO PROSECUTE THEIR APPEAL IN AN ACTION BROUGHT AGAINST THEM BY JOSEPH FOWLER, APPELLEE, AT THE NEXT TERM OF THE SUPERIOR COURT, ETC., FOR THE COUNTY OF ESSEX; THE SAID APPELLEE TO BE SERVED WITH A COPY OF THIS ORDER, ETC. [*Approved November 17.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 57.

ORDER FOR LAYING OUT TO JOSIAH AND THEOPHILUS COTTON FIVE HUNDRED ACRES OF LAND WHICH WERE GRANTED BY THE GENERAL COURT IN 1685 TO THEIR FATHER, JOHN COTTON, DECEASED. [*Approved November 17.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 58.

RESOLVE FOR ALLOWING AND PAYING FIVE POUNDS OUT OF THE PROVINCE TREASURY TO RICHARD GRIDLEY OF BOSTON, A SOLDIER WHO BROKE HIS ARM WHILE IN THE QUEEN'S SERVICE.

UPON READING the petition of Cpt. Richard Gridley, praying some recompence for his loss of time, being utterly uncapable at present to follow his trade, having broke his right arm whilst in her majesties service, —

Resolved — That the Sum of five Pounds be allowed & Paid out of the Publick Treasury, to Richard Gridley the Petitioner. [*Approved November 18.*]

CHAPTER 59.

ORDER FOR FURTHER CONTINUING THE RESOLVE OF MARCH 7, 1700-1,*
FOR COMPROMISING AND ENDING THE DIFFERENCES RELATING TO
THE SUPPORT OF THE MINISTRY IN THE MIDDLE AND EASTERLY
PARTS OF WATERTOWN. [*Approved November 18.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc.,
of towns, etc.*]

CHAPTER 60.

ORDER FOR ANNEXING THE TOWN OF ROCHESTER TO THE COUNTY OF
PLYMOUTH, AND DIRECTING THAT THE RATES ALREADY ASSESSED
SAID TOWN IN THE COUNTY OF BARNSTABLE BE PAID THERE. [*Ap-
proved November 19.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc.,
of towns, etc.*]

CHAPTER 61.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE
PROVINCE TREASURY TO SAMUEL STEVENS OF MARLBOROUGH, A
SOLDIER WOUNDED IN THE QUEEN'S SERVICE; ALSO FOR ALLOW-
ING HIM A PENSION OF FORTY SHILLINGS PER ANNUM DURING THE
PLEASURE OF THE GENERAL COURT.

THE FOLLOWING RESOLVE pass'd in the house of represent^{ves}. upon the
petition of Samuel Stevens of Marlboro', wounded in her majesties ser-
vice, read and concur'd; viz., —

Resolved — That the Sum, of Twenty Pounds, be Allowed & Paid
out of the publick Treasury, to Samuel Stevens, the Petitioner, in full
for Payment, of his Expence on the Doctor &c^a. And That a Pension
of forty shillings p^a ann^o, be allowed him during the Pleasure of this
Court. [*Approved November 20.*]

CHAPTER 62.

RESOLVE FOR ALLOWING AND PAYING NINE POUNDS SEVEN SHIL-
LINGS AND EIGHTPENCE OUT OF THE PROVINCE TREASURY TO
BENJAMIN ELIOT FOR COPIES OF THE LAWS, AND FOR PAPER, ETC.,
FOR THE USE OF THE PUBLIC.

THE FOLLOWING RESOLVE pass'd in the house of represent^{ves}. upon an
acc^t of Benjamin Eliott, bookseller, read and concur'd; viz., —

Resolved That the s^d sum of Nine, Pounds seven shillings, & eight
pence, be Allowed & paid out of the publick Treasury, to Benj^a Eliot
the accountant [*Approved November 21.*]

* See resolves, 1700-1, chapters 29 and 76.

CHAPTER 63.

VOTE FOR EXCHANGING THE LAND FORMERLY BELONGING TO DANIEL WILCOK FOR THE LAND OF COLONEL BENJAMIN CHURCH, FOR THE BETTER ACCOMMODATION OF THE INDIANS THERE DWELLING, ETC.*
[*Approved November 24.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 64.

VOTE FOR APPOINTING THURSDAY, THE ELEVENTH DAY OF DECEMBER, 1707, AS A DAY OF PUBLIC THANKSGIVING.

UPON THE DESIRE of the represent^{ves}. his excellency, with the advice of the council, emitted a proclamation for a general thanksgiving upon Thursday the eleventh of December next. [*Approved November 24.*]

CHAPTER 65.

VOTE DECLARING THAT THE AGREEMENT OF THE TOWN OF BRAINTREE FOR THE SUPPORT OF THE REVEREND MOSES FISKE IS GOOD AND VALID, AND THAT THE MEMBERS OF THE NEW CONGREGATION SUBSCRIBE FOR THE MAINTENANCE OF THEIR MINISTER AND PRESENT THE SAME AT THE NEXT SESSION OF THE GENERAL COURT, ETC.† [*Approved November 25.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 66.

ORDER FOR ABATING FOUR POUNDS OF THE DUTY DUE BY DAVID JEFFRIES OF BOSTON, ON A NEGRESS AND FOUR CHILDREN CON-SIGNED TO HIM IN THE SLOOP REBECCA, FROM JAMAICA, JOHN PITTS, MASTER.

UPON READING the petition of David Jeffries, merchant, praying an abatement of the duty for four small negroe children imported, —

Ordered — That the Sum of ffour Pounds be abated to the Petitioner, in regard one of the Said negroes, was a Sucking child. [*Approved November 25.*]

* See resolve, 1700-1, chapter 80, and vote 1706-7, chapter 105.

† See chapters 36 and 51, *ante*.

CHAPTER 67.

RESOLVE FOR ALLOWING AND PAYING FIFTEEN POUNDS OUT OF THE PROVINCE TREASURY TO JOHN COLBORN, A SOLDIER WOUNDED IN THE QUEEN'S SERVICE.

Resolved — That the Sum of fifteen Pounds be allowed, & Paid, out of the publick Treasury, to John Colburn the Petitioner, in full for Payment of Doctors, Dyet, smart-money, & losse of time. [*Approved November 25.*]

CHAPTER 68.

VOTE ACCEPTING THE REPORT OF THE COMMITTEE* APPOINTED TO CONSIDER THE ANCIENT RECORDS OF LINES AND BOUNDARIES BETWEEN THE LATE COLONY OF THE MASSACHUSETTS BAY AND THE COLONY OF CONNECTICUT, AND THE LATE COLONY OF NEW PLYMOUTH AND THE COLONY OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, AND TO PROPOSE METHODS TO COMPROMISE AND SETTLE DISPUTES RELATING THERETO BETWEEN THE GOVERNMENTS OF THE ADJACENT TERRITORIES. [*Approved November 26.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 69.

RESOLVE FOR ALLOWING AND PAYING FOUR POUNDS AND FIFTEEN SHILLINGS OUT OF THE PROVINCE TREASURY TO JOSEPH WILDER OF LANCASTER, IN FULL FOR SNOW-SHOES PROVIDED BY HIM FOR THE QUEEN'S SERVICE IN THE YEAR 1703.

THE FOLLOWING RESOLVE, pass'd in the house of represent^{ves.} upon a petition of Joseph Wilder of Lancaster praying payment of four pounds fifteen shillings for snow-shoes provided for her maj^{ties} service in the year 1703, read and concur'd; viz., —

Resolved — That the Sum of four Pounds and fifteen shillings be allowed, & Paid out of the publick Treasury to Joseph Wilder the Petitioner, in full for the Snow Shoes abovementioned. [*Approved November 26.*]

CHAPTER 70.

RESOLVE FOR GRANTING THREE HUNDRED ACRES OF LAND TO JOHN SHILDEN IN CONSIDERATION OF HIS SERVICES AS MESSENGER TO CANADA, AND DIRECTING A PLAT THEREOF TO BE LAID BEFORE THE GENERAL COURT. [*Approved November 26.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

* See chapters 33 and 41, ante.

CHAPTER 71.

ORDER FOR GRAVING THE PROVINCE GALLEY.*

UPON REPRESENTATION of M^r Commissary-General that the province galley will suffer considerable damage by lying ungraved, —
Ordered, That she be forthwith graved. [*Passed November 26.*]

CHAPTER 72.

RESOLVE FOR ALLOWING AND PAYING OUT OF THE PROVINCE TREASURY A PENSION OF THREE POUNDS PER ANNUM, UNTIL OTHERWISE ORDERED, TO WILLIAM SUTTON, A SOLDIER WOUNDED IN THE QUEEN'S SERVICE.

Resolved That the Sum of Three Pounds p annum be Allowed, & Paid out of the publick Treasury to William Sutton the Petitioner, untill this Court shall order otherwise. [*Approved November 26.*]

CHAPTER 73.

RESOLVE FOR ALLOWING AND PAYING TWENTY POUNDS OUT OF THE PROVINCE TREASURY TO THOMAS PHILLIPS OF BOSTON, WHO WAS CRIPPLED WHILE IN THE QUEEN'S SERVICE; AND FOR ALLOWING HIM A PENSION OF THREE POUNDS PER ANNUM UNTIL OTHERWISE ORDERED.

THE FOLLOWING RESOLVE, pass'd in the house of represent^{ves} upon the petition of Thomas Phillips of Boston, wounded in her majestie's service, read and concour'd; viz., —

Resolved — That the Sum of Twenty Pounds be allowed, & Paid out of the Publick Treasury to Thomas Phillips the Petitioner, for Compensation to this day, And Three Pounds, p annum, as a Pension, So long as this Court shall see good, to allow the Same. [*Approved November 26.*]

CHAPTER 74.

ORDER FOR PAYING THE SOLDIERS WHO DESERTED FROM THE EXPEDITION TO NOVA SCOTIA BUT RETURNED AND VOLUNTARILY RE-ENTERED THE SERVICE; ALSO FOR CONTINUING IN THE SERVICE AND UNDER PAY FOR ONE YEAR, THOSE WHO WERE BROUGHT BACK BY FORCE, AND REQUIRING THAT SUCH OFFICERS AND SOLDIERS WHO DID DESERT BE PROPERLY DISTINGUISHED IN THE MUSTER ROLLS, ETC.

In the House of Representatives Nov^r 25th 1707.

INASMUCH as we understand, That the Souldiers, in the late Expedition, to Nova Scotia were in the Enlisting themselves generally under Expectation, of being Dismiss'd within ten weeks, but were Continued longer.

* It has not been found that the representatives acted with the Council in the passage of this order; but, since it is recorded in the legislative journals of the Council, and involved the expenditure of money, it is assumed to have been passed concurrently by both branches.

Ordered — That the Deserting souldiers in the said Expedition, such as return'd again, and were admitted, into service, be Paid, for what time they served, both before, & after their Deserting: And That such as did not Return upon Proclamation, but were Taken & Returned by force, be Continued, in her Majesties service under Pay, one twelve months from this time if the war Continues so long.

That such as never Returned again have no Pay.

That such as did Return upon Proclamation and are yet Continued in service, His Excellency be Requested, to Release them as soon as may be.

That the Granadiers, have ten shillings apiece allowed them towards their red Coats & Caps, and Pay the rest out of their wages.

That the Commission-Officers be allowed Pay, for no longer time, than untill the souldiers, under them, were Disbanded, & such as had leave to Return from the army, for no longer time, than untill they did or might get home.

Sent up for Concurrence

JOHN BURRILL *Speaker*

In Council — 25th Nov^r 1707. Read.

In Council. 26^o Nov^r 1707. Read and Concurr'd.

Is^d ADDINGTON *Sec^y*

26^o Nov^r 1707. In Council.

In Pursuance of the within written Articles Ordered That every Captain and Commanding Officer of Each Company, do truly distinguish in his Roll of such of his officers and souldiers that Deserted with the day when and the day of their Return; on Paine that any Captain or Commanding Officer that neglects his Duty herein shall forfeit his own pay, the value thereof to be recovered back, if before received: —

Sent down for Concurrence

Is^d ADDINGTON *Sec^y*

In the House of Representatives Nov^r 27: 1707.

Read and Concurr'd

JOHN BURRILL *Speak^r*

[*Approved November 27.*]

CHAPTER 75.

ORDER FOR ADDING COLONEL SAMUEL CHECKLEY TO THE COMMITTEE APPOINTED TO PRINT AND SIGN, ETC., BILLS OF PUBLIC CREDIT, IN PLACE OF SAMUEL LEGG, DECEASED.

Ordered, That Coll. Samuel Checkley be added to the committee* for making and signing credit bills on this province in the room of Sam^l. Legg, Esq^r, dec^d. [*Passed November 27.*]

CHAPTER 76.

RESOLVE FOR ALLOWING AND PAYING THREE POUNDS THREE SHILLINGS AND SIXPENCE OUT OF THE PROVINCE TREASURY TO WILLIAM BEAL, IN FULL FOR FERRYING DONE FOR THE PROVINCE, TO DATE.

Resolved, That the sum of three pounds three shillings and sixpence be allow'd and paid out of the publick treasury to William Beal, in full for ferryage done for the province to this day. [*Approved November 27.*]

* See resolves, 1702, chapter 74, and 1703-4, chapter 48.

CHAPTER 77.

RESOLVE FOR ALLOWING AND PAYING FIVE POUNDS FOURTEEN SHILLINGS AND SIXPENCE OUT OF THE PROVINCE TREASURY TO THOMAS SAWYER, IN FULL FOR HIS EXPENSES FOR NURSING OF, AND ATTENDANCE UPON, SEVERAL SICK AND LAME SOLDIERS.

Resolved, That the sum of five pounds fourteen shillings and sixpence be allow'd and paid out of the publick treasury to Thomas Sawyer, in full of his accompt of expences for nursing and attendance of Nickerson, Brick, Kent and Fowler, sick and lame soldiers in her majestie's service, put on shoar at Gloucester. [*Approved November 27.*]

CHAPTER 78.

RESOLVE FOR ALLOWING AND PAYING THREE POUNDS FOUR SHILLINGS AND TENPENCE OUT OF THE PROVINCE TREASURY TO EDWARD SARGENT IN FULL FOR FERRYING DONE, ETC., FOR THE PROVINCE, TO DATE.

Resolved, That the sum of three pounds four shillings and tenpence* be allow'd and paid out of the publick treasury to Edward Sergeant in full for ferryage and subsistence for the province to this day. [*Approved November 28.*]

CHAPTER 79.

RESOLVE FOR ALLOWING AND PAYING THREE POUNDS OUT OF THE PROVINCE TREASURY TO RICHARD JACKMAN, IN FULL FOR FERRYING DONE FOR THE PROVINCE TO DATE.

Resolved, That the sum of three pounds be allowed and paid out of the publick treasury to Richard Jackman, in full for ferryage done by him for the province to this day. [*Approved November 28.*]

CHAPTER 80.

RESOLVE FOR ALLOWING AND PAYING TWO POUNDS FIFTEEN SHILLINGS AND SIXPENCE OUT OF THE PROVINCE TREASURY TO JOHN NEWMAN, IN FULL FOR HIS CARE OF SEVERAL SICK AND LAME SOLDIERS.

Resolved, That the sum of two pounds fifteen shillings and sixpence be allow'd and paid out of the publick treasury to John Newman, Esq^r, in full of his accompt for his care of sev^{al} sick and lame soldiers. [*Approved November 28.*]

* "Twopence," in the Executive Records of the Council, and in the Treasurer's account.

CHAPTER 81.

RESOLVE FOR PRINTING, ETC., TEN THOUSAND POUNDS AND EMITTING TWENTY THOUSAND POUNDS IN BILLS OF PUBLIC CREDIT; AND FOR GRANTING A TAX OF TWENTY THOUSAND POUNDS. [*Approved November 28.*]

[*Printed in the notes to the acts of the year 1707.*]

CHAPTER 82.

VOTE ACCEPTING THE REPORT OF THE COMMITTEE APPOINTED TO VIEW THE LANDS IN CONTROVERSY BETWEEN THE TOWNS OF TOPSFIELD AND BOXFORD.* [*Approved November 28.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 83.

RESOLVE FOR ALLOWING AND PAYING SEVENTY POUNDS OUT OF THE PROVINCE TREASURY, IN EQUAL PARTS, TO JOHN APPLETON, SAMUEL LILLIE, JOHN RUCK AND JOANNA BULKLEY, IN FULL FOR CANNON IMPRESSED FOR THE KING'S SERVICE AT CASTLE WILIAM.

A PETITION of Samuel Lillie, merch^t, praying payment for four great guns belonging to him and company, impress'd for her^t maj^{ties} service at the Castle, read and concur'd with the resolve pass'd thereon in the house of represent^{ves}; viz., —

Resolved, That the sum of seventy Pounds be Allowed, & Paid out, of the Publick Treasury in eqvall Parts, to John Appleton Esq^r Samuel Lilly. John Ruck, & Joanna Buckley, in full for the Guns within mentioned. [*Approved November 28.*]

CHAPTER 84.

ORDER FOR APPOINTING A COMMITTEE TO EXAMINE, ETC., INTO THE CONTROVERSY BETWEEN BENJAMIN WOODBRIDGE AND THE TOWN OF MEDFORD, AND TO REPORT AT THE NEXT SESSION.

THE FOLLOWING ORDER pass'd in the house of represent^{ves} upon the petition of M^r Benj^a. Woodbridge, minister of Medford, read and concur'd; viz., —

Ordered, That Samuel Sewall, Eliakim Hutchinson, Penn Townsend, Esq^r, Coll. Samuel Checkley, Cpt. Thomas Oliver, M^r William Denison and M^r John Greenland be a committee to hear and examine into the controversy and difference between the petitioner and the town of Medford, M^r Sewall to appoint the time and place for meeting, and to

* See chapter 12, *ante*.

† This should be "his," King William being then the reigning monarch.

notify the selectmen thereof; the committee to make report of their doings to this court at their next session, and of what they think expedient to be done to issue and determine the same. [*Approved November 28.*]

CHAPTER 85.

RESOLVE APPOINTING A COMMITTEE TO GO UPON THE BOUNDARY LINE BETWEEN THE FORMER COLONY OF NEW PLYMOUTH AND THE COLONY OF RHODE ISLAND AND RENEW THE ANCIENT BOUND-MARKS, THEY TO SEASONABLY NOTIFY THE GOVERNMENT OF RHODE ISLAND OF THE TIME WHEN THEY WILL ATTEND THE SAME, ETC. [*Approved November 29.*]

[*Printed with resolves, orders, etc., relating to the establishment, etc., of towns, etc.*]

CHAPTER 86.

VOTE FOR ALLOWING WILLIAM ROUS, A PRISONER CONVICTED OF HIGH MISDEMEANOR, TO BE REMOVED TO HIS HOUSE FOR THE RECOVERY OF HIS HEALTH, PROVIDED HE GIVE SUFFICIENT SECURITY TO THE SHERIFF THAT HE WILL RETURN TO PRISON WHEN REQUIRED TO DO SO BY THE GENERAL COURT; THE SHERIFF AUTHORIZED TO TAKE SUCH SECURITY WITH THE ADVICE OF THE JUDGES OF THE SUPERIOR COURT.

UPON READING a petition of William Rowse, mariner, setting forth that he has been a prisoner in the goal of Boston about eighteen months, where he continues under great indisposition of body and his life much endanger'd should he be confined there another winter, praying that he may have liberty to go to his own house, he giving security to return to prison again as soon as he shall be required so to do by this honourable court, if her majesty do not remit the fine laid on him, the representatives having voted thereon that the prayer of the petition be granted, —

On Consideration of the Vote of the House, and the Representation of the Prisoners Hazard of his Life by being continued in Prison.

Voted That the Sheriffe take sufficient and proper Security in the Law, upon Adviseement with the Judges of the Superiour Court, for the Prisoners Liberty in manner as Prayed for.—[*Approved November 29.*]

CHAPTER 87.

VOTE REQUIRING THAT THE CONDITION OF THE RELEASE OF WILLIAM ROUS UNDER THE PRECEDING CHAPTER BE THAT HE RENDER HIMSELF FOR RECOMMITMENT TO JAIL WHEN THE SHERIFF SHALL DEMAND HIM.

Voted That the Petition^r be removed to his own House for the Recovery of his health, He giving proper and Sufficient Security in the Law to the Sheriffe, by Adviseement of the Judges of the Superiour Court to render his body again to the Sheriffe within the said Goal as a Prisoner, when he shall demand him. [*Approved December 2.*]

CHAPTER 88.

VOTE REAFFIRMING THE DECLARATION IN THE RESOLVE OF THE PRESENT YEAR, CHAPTER 29, AS TO THE MEANING OF THE SIXTH SECTION OF THE ACT OF NOVEMBER 16, 1692, AND FOR RESTORING BOSTON TO THE GENERAL RULE THROUGHOUT THE PROVINCE.

IN ANSWER to a petition presented by some of the assessors of the town of Boston, containing queries upon the paragraph of the act for regulating townships, etc., relating to town assessments, and proposing an act to be made that the landlord reimburse the tenant the full of what he is assessed for the housing and land he occupies, —

The Question moved in the within Petition was fully Resolved by this Court, at their Session in August past, And the Assessors ought to have Observed the same accordingly, as to Town Rates. —

And that Boston be restored to the General Rules throughout the said Province. — [*Approved December 3.*]

CHAPTER 89.

ORDER AUTHORIZING MARY WOODBERRY, WIDOW OF ANDREW WOODBERRY, LATE OF SALEM, DECEASED, TO SELL ONE-HALF OF AN ACRE. PART OF THE HOMESTEAD OF SAID DECEASED, FOR HER SUPPORT, ETC.

UPON READING a petition of Mary Woodbury, widow of Andrew Woodbury, late of Salem, dec^d, and her daughters Elisabeth Moor and Hannah Cox, praying that the said widow, or some other persons on her behalf, may be impowered to make sale of a dwelling-house with about three quarters of an acre of land left by her said husband, for her relief in her old age and extreame poverty, —

Ordered, That half one acre of said land be sold for the relief of the said widow, that Cpt. Samuel Gardner and Cpt. William Bowditch be impower'd by act of this general court to make such sale and give deed of the same and improve the money for her relief, and that if any money remain that may not be expended, the same shall be distributed equally to the next heirs: *provided* that there be no more children known to be living than the petitioners.

Provided, also, —

That no more than one-half an acre of land be sold, the house to be saved. [*Approved December 4.*]

CHAPTER 90.

RESOLVE MAKING NULL AND VOID THE RESOLVE OF JULY 10, 1700,* FOR ALLOWING AND PAYING TWO HUNDRED AND TWENTY POUNDS PER ANNUM TO THE PRESIDENT OF HARVARD COLLEGE.

Resolved — That the Vote of this Court Pass'd in July 1700, in the words following viz: “Resolved — That the sum of Two Hundred, & Twenty Pounds ~~p~~ annum be allowed, & Paid, out of the Publick Treasury to the President, already chosen, or that shall be chosen, by this Court, he residing at the Colledge.”

Had respect only to the choice then made, or making, & has had it's full effect, and is now, of no further power, or efficacy but forever void. [*Approved December 4.*]

CHAPTER 91.

RESOLVE FOR ALLOWING AND PAYING FOUR POUNDS OUT OF THE PROVINCE TREASURY FOR LOSS OF TIME AND THE EXPENSE OF HIS CURE TO ROBERT ROGERS OF ROWLEY, A SOLDIER WOUNDED IN THE QUEEN'S SERVICE.

A RESOLVE pass'd in the house of represent^{ves}. upon the petition of Robert Rogers of Rowley, wounded in her maj^{ties}. service, praying for some compensation for his loss of time and perfecting of his cure; viz., —

Resolved — That the Sum of Four Pounds be allowed, & Paid out of the Publick Treasury to Robert Rogers the Petitioner, in full for what he Pray's in his Petition. [*Concurred in by the Council, and approved December 5.*]

CHAPTER 92.

RESOLVE FOR ALLOWING AND PAYING FOUR POUNDS OUT OF THE PROVINCE TREASURY TO JOHN GRIFFIN OF HAVERHILL, IN FULL OF HIS ACCOUNT FOR FERRYING SOLDIERS AND HORSES, TO OCTOBER 22, 1707.

In the House of Representatives. Dec^r 2^d 1707.

Resolved — That the sum of seven Pounds, & sixteen shillings, be allowed, & Paid out of the publick Treasury to John Griffin, in full for ferryage, for the Province to the 22th of October last,

Sent up for Concurrence.

JOHN BURRILL *Speak^r*

In Council. 5^o Dec^r 1707. Read and Agreed to Four Pounds

Sent down.

Is^t ADDINGTON *Sec^{ry}*

In the House of Representatives *Die Prædict:*

Read, & Agreed,

JOHN BURRILL *Speak^r*

[*Approved December 5.*]

CHAPTER 93.

RESOLVE FOR ALLOWING AND PAYING THIRTY-ONE POUNDS THREE SHILLINGS AND EIGHTPENCE OUT OF THE PROVINCE TREASURY TO THE TOWN OF BOSTON FOR THE SUPPORT OF SEVERAL PERSONS DRIVEN FROM THE EASTWARD BY THE ENEMY.

AN ACCOMPT presented by the overseers of the poor of the town of Boston for charges on sundry aged and infirm persons of the eastern parts, etc., driven upon them through the calamity of the war, amounting to thirty-one pounds three shillings and eightpence, with the resolve pass'd thereon by the house of representatives, read and concur'd; viz., —

Resolved, That the sum of thirty-one pounds three shillings and eightpence be allow'd and paid out of the publick treasury to the overseers of the poor in Boston, in full of the s^d accompt. [*Approved December 5.*]

CHAPTER 94.

VOTE FOR ALLOWING A SALARY OF ONE HUNDRED AND FIFTY POUNDS PER ANNUM TO THE PRESIDENT OF HARVARD COLLEGE; AND DIRECTING THE PRESIDENT AND FELLOWS OF SAID COLLEGE TO REGULATE THEMSELVES IN THE CARE OF THE COLLEGE ACCORDING TO THE RULES OF THE CONSTITUTION BY THE ACT OF THE YEAR 1650.

4^o Dec^r 1707. / In Council —

THE GOVERNOUR and Council haveing Accepted and approved the choice made by the Fellows of Harvard Colledge in Cambridge, of m^r John Leverett to be present President of the said Colledge, to fill up that Vacancy. —

Propose That the House of Representatives consider of and Grant a Suitable Salary to be paid to the said President annually out of the Publick Treasury for his Encouragement and Support during his continuance in the said Office, residing at Cambridge and Discharging the proper Duty's to a President belonging: And intirely Devote himselfe to that Service. —

And Inasmuch, as the first foundation and Establishm^t of that House, and the Government thereof, had it's Original from an Act of the General Court, made and pass'd in the year. 1650. which has not been repealed or Nulled.

The President and Fellows of the said Colledge are Directed, from time to time, to Regulate themselves according to the Rules of the Constitution by the said Act prescribed; And to Exercise the Powers and Authority's thereby Granted for the Government of that House and the Support thereof. —

Voted.

Sent down for concurrence

Is^t ADDINGTON *Sec^{ry}.* —

In the House of Representatives

Dec^r 4: 1707. Read.

5: . . . Read, & Concurr'd And

Voted That the sum for salary be one

Hundred & fifty Pounds.

Agreed to in Council. 6^o Dec^r 1707.

JOHN BURRILL *Speak^r*

Is^t ADDINGTON *Sec^{ry}.*

[*Approved December 6.*

CHAPTER 95.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO JOSEPH DUDLEY FOR HIS SERVICES AS GOVERNOR, ETC.

Resolved, That the sum of two hundred pounds be allowed and paid out of the publick treasury to his excellency Joseph Dudley, Esq^r, captain-general and govern^r-in-chief of this province, for his support in managing the affairs of the government. [*Approved December 6.*

CHAPTER 96.

RESOLVE FOR ALLOWING AND PAYING FIFTY POUNDS TO ISAAC ADDINGTON, SECRETARY OF THE PROVINCE, FOR HIS EXTRAORDINARY SERVICES DURING THE YEAR ENDING IN JANUARY, 1707-8.

Resolved, That the sum of fifty pounds be allow'd and paid out of the publick treasury to the Hon^{ble}. Isaac Addington, Esq^r, for his extraordinary service for this province the year curr^t, ending the next month. [*Approved December 6.*]

CHAPTER 97.

RESOLVE FOR ALLOWING AND PAYING TWO HUNDRED POUNDS TO ANDREW BELCHER FOR HIS SERVICES AS COMMISSARY-GENERAL DURING THE YEAR ENDING AUGUST 19, 1707.

Resolved, That the sum of two hundred pounds be allow'd and paid out of the publick treasury to the Hon^{ble}. Andrew Belcher, Esq^r, commissary-general, for his good service in the said office the year past, ending the nineteenth of August. [*Approved December 6.*]

CHAPTER 98.

RESOLVE FOR ALLOWING AND PAYING SIXTY POUNDS TO THE ADMINISTRATORS OF THE ESTATE OF THE LATE SAMUEL WILLARD, VICE-PRESIDENT OF HARVARD COLLEGE, IN FULL FOR HIS SERVICES DURING THE YEAR PAST.

Resolved — That the sum of sixty Pounds be allowed, & Paid, out of the publick Treasury to the Administrators, of the Estate, of the late reverend M^r Samuel Willard, Vice-President of Harvard Colledge dec^d in full for his good service the last yeare. [*Approved December 6.*]

CHAPTER 99.

RESOLVE FOR THE FURTHER ALLOWANCE OF FIFTEEN POUNDS TO JOHN WHITE, CLERK OF THE HOUSE OF REPRESENTATIVES, IN FULL FOR HIS SERVICES DURING THE YEAR ENDING IN MAY, 1708.

Resolved, That the sum of fifteen pounds be further allow'd and paid out of the publick treasury to John White, clerk of this house, in full for his service the year currant, ending in May next. [*Concurred in by the Council, and approved December 6.*]

CHAPTER 100.

RESOLVE FOR ALLOWING AND PAYING FIFTY-TWO POUNDS FOUR SHILLINGS AND FOURPENCE TO JAMES RUSSELL, IN DISCHARGE OF HIS ACCOUNT AS COMMISSIONER OF IMPOST FROM AUGUST 16, 1705, TO NOVEMBER, 1707; ALSO TWENTY POUNDS MORE, WHEREWITH TO PAY DANIEL LAWRENCE FOR HIS SERVICES AS WAITER TO THE IMPOST OFFICE FROM APRIL 1 TO NOVEMBER 1, 1707.

Resolved, That the sum of fifty-two pounds four shillings and fourpence be allow'd and paid out of the publick treasury to the Hon^{ble}. James Russell, Esq^r, in discharge of his account as commissioner of impost for office-rent, taxes and other charges from the 16th of August, 1705, to November past; and the sum of twenty pounds for him to pay Daniel Lawrence, waiter of impost, for his service from the first April to the first of November last. [*Approved December 6.*]

CHAPTER 101.

RESOLVE FOR ALLOWING AND PAYING FIFTEEN POUNDS OUT OF THE PROVINCE TREASURY TO SAMUEL HUNT FOR HIS SERVICES IN THE MINISTRY AT DUNSTABLE, FOR THIRTY-THREE WEEKS, ENDING APRIL 23, 1707.

Resolved That the sum of fifteen Pounds be allowed, & Paid out of the publick Treasury, to M^r Samuel Hunt the Petitioner towards his maintenance, as minister at Dunstable for Thirty three weeks ending the 23 of April last [*Approved December 6.*]

CHAPTER 102.

ORDER FOR REFERRING TO THE NEXT SESSION OF THE GENERAL COURT THE CONSIDERATION OF THE SERVICES OF THE COMMISSIONERS WHO COMMANDED THE LATE EXPEDITION TO NOVA SCOTIA AND OF THE SECRETARY OF WAR, WILLIAM DUDLEY.

Ordered That the Consideration of the Service of the Com^{miss}^{rs} that Commanded the late Expedition to Nova Scotia, & Secretary of War M^r William Dudley be Referr'd to the next session of this Court, the House being now very thin. [*Concurred in by the Council, and passed December 6.*]



NOTES.

NOTES TO THE RESOLVES, ETC.

1703-4.

Chap. 1. This chapter is from council records, vol. VII., p. 386. It has not been found in the archives.

The proposal for inviting Stoddard, who was the minister at Northampton, was made by Governor Dudley, as appears by the following entry:—

"March 18, 1702-3. His Excellency proposed that the Revd Mr Solomon Stoddard be desired to preach a Sermon to the Great and General Court or Assembly, to convene in May next upon the day of opening the sd Court, as has been accustomed, and the Council advised the same, and ordered the Secretary to write a Letter to acquaint the said Mr Stoddard thereof." — *Executive Records of the Council*, vol. 3, p. 418.

"[May] 20. [1703.] . . . This day Mr. Stoddard comes to Town, being to preach the Election Sermon." — *Seewall's Diary*, vol. II., p. 77.

The sermon, which was preached May 26, 1703, from the text Exodus, xx. 12, was printed under the title, "The Way for a People To Live Long in the Land that God Hath given them."

Chap. 3. This chapter is from council records, vol. VII., p. 392. It has not been found in the archives.

By the resolve of 1702-3, chapter 8, a hearing on Gibson's petition printed in the note to that chapter was appointed for the second Wednesday of the present session, and the petitioner was ordered to notify the adverse party. That notice was duly given is to be inferred from the concluding paragraph in the following reply of Gove, at whose suit was rendered the judgment of which Gibson complained:—

"To his Excellency y^e Gouer^r Councill & Representatiues In Gene^l Assembly Conuened In y^e Genel Court at Boston y^e 26th may 1703

The Humble Reply of Jn^o. Goue to y^e Petition & Complaint of Sam^l Gibson of Cambridg is as followeth—

That Where as yo^r Respondent was Lawfully seized of a Lott of Wood or Deution of Wood: on: Land Lying & being in Cambridg near to a farme of Mr Tho: Danforth Commonly called Whitamores farme: The Which sd Wood Lott being originally Granted by ye Towne of Cambridg in y^e year (1646 Vnto m^r Richard Champney orderly measured out & bounded: & by sd Grantee & his Assigns Peaceably & quietly Enjoyed wth out trouble or mollestation; & in y^e year 1677) was sold by y^e Assigns of sd Champney to y^e aboue named Jn^o Goue now Respondent, Who had also had quiet & peaceable Possession & improuement Thereof untill sd Gibson Disturbed mee by Cutting & Carrying of my Wood, So yt ye Whole time of ye Respondants Possession by himself & Predecessors was more Then 47 y^{es} then Last Past: The sd Goue being Informed of sd Gibsons taking away his Wood without leaue first had of him: Spake to sd Gibson about it: Who brake out in a passion against ye Informer & refused to allow me my Small demand for his Trespass yt I should haue accepted of if he had allowed me it & promised to trespass on mee no more: but his answer was he wold not: & said I might take my Course Where upon sd Goue Prosecuted sd Gibson for a trespass before Justice Lynd & Nonsuited twice; y^e Third time y^e Case Proceed, to tryall; & I proued ye trespass And Judgment Went against sd Gibson: & then he appealed to Concord Court, Where ye Case was Continued to Cambridg Court; Who also Gaue Judgment against him: Where up* I had some little Compensation for my Trespass & expence, But by Reason of Nonsuits and being enforced to improue Attorneys to help mee, I fell farr short of my disbursements in defending & mainteining my dear Purchased Wood Lott: sd Gibson made a great Stirr about y^e Land, I neuer Claimed ye Land: but as I Cleared of my Wood he might haue Cleared ye Land away; or Improued it there If ye Towne had Giuen such leaue; But to disturb mee in y^e Improuement of my Wood yt was Granted my Predecessors & that without any order of ye Town I thought he was a Trespasser & to be thus disturbed by him still, after a Legall Tryall to be brought before yo^r Hon^r for a Criminall or to hear ye upright Judges Reflected on is my Greif: But I Humbly Pray yo^r hon^r Relcif & Deliuerance out of his hands, Hauing don him no wrong, being without hope of being saned from ye Lashes of his tongue:

I Humbly Conclue I haue don nothing but What ye Law allowed; & if he wold he might haue renewed his Case & I must haue answered him; & if ye Court did miss it as he saith Which is farr from me to think they hane; I cannot see any Reason yt I should be brought to y^e barr to Answer for it: But accounting it my Duty to attend yo^r Hon^{rs} Notification: I hope I shall Quietly Submit to yo^r Hon^{rs} Determination & pray God to Glide you thereunto—

Yor Ho^{rs} most Humble Seru^t

JN^o GOVE." — *Mass.*

Archives, vol. 40, p. 758.

For further proceedings in this controversy see chapter 63, *post*, and note.

* *Sic.*

Chap. 5. This chapter is from council records, vol. VII., p. 393, and archives, vol. 70, p. 629.

The petition mentioned in the preamble to this chapter was as follows:—

“To His Excellency the Governor And Comand^r In Chief of hir majesties Province of the Massachusetts Bay In New Engl and to the Hon^{ble} Council And Representatives In the great And Gen^l Court Assembled the twenty sixth of May 1703

The petition of Sam^l Wright of Northampton In the county of Hampshire—Humbly shews—

That your petitioner In the first Indian war was pressed up to Northfield under Capt Lathrop: and there Left a garrison souldier: soon after which the Indians besieged that fort: they killed my father: and shot a bullett into my hipp bone; from thence I was brought to hadley under cure of docter wescott where I was untill winter; The docter dying I shifted from one surgeon to another untill the spring: In Aprill following I went to harford to m^{rs} Allyn where I was about seven moneths, all which Time I paid for my Dyet and chyrurgeon; out of my own estate; and Altho I attained to so much strenght as to walk about and carry an end some buisness it hath bin with much pain and difficulty: for the bullett Remaining still In my hip bone, the wound continually runs and hath done so these fifteen years and altho at some times tis almost dried up yet it breaks out again: and especially of Late years it grows worse and worse; so that I am almost disinabled for Labour and what I do is with much pain and difficulty: I have often bin put upon it to petition your releif: but Living so remote, and considering The distresses the country lath from time to time bin under; and hoping stell I should be better, I never as yett asked any Recompense; and had it pleased god to give me a perfect cure, I should not have troubled yor honors with any thing of this nature: but considering my family is grown great; the great charges I have bin at, my Lameness and misery by reason of my wound yearly Increasing: puts me upon it humly to Request your honors to consider my condition, and yeld me such releife as you shall Judg meet; hoping that as you have bin alwayes Ready to Incouridge souldier, to releave the wounded The cause of my request being so Just; you will not shutt me out off your compassions: which will obldg yor Petition^r ever to pray for you

Northampton May 3 1703:

SAMLL WRIGHT.”—*Mass.*

Archives, vol. 70, p. 629.

This petition was read in the House on the first of June. On the next day it was read again, and the resolve which constitutes this chapter was passed and sent to the Council, where it was concurred in, and consented to by the Governor.

An order in Council* for paying to Wright the ten pounds allowed by this chapter was passed August 5, 1703, and the province treasurer's account† shows that this amount, as also his annual pension, was paid to him. He died November 29, 1734.

Chap. 6. This chapter is from council records, vol. VII., p. 394, and archives, vol. 11, p. 184.

The following is the petition mentioned in the preamble to this chapter:—

“To his Excellcy Joseph Dudley Esq; Capt General and Governor in Chief in and over the Province of the Massachusetts Bay in New England and Vice-Admiral of the same, The Hon^{ble} her maj^{ties} Council of the sd Province; and To the Hon^{ble} House of Representatives convened in General Assembly for the sd Province.—

The Humble Petition of Several of the freeholders Proprietors & Inhabitants of Lancaster within the sd Province, whose names are hereunto subscribed.

Sheweth

That in or about the year 1653. The Inhabitants of the s^d Town did agree amongst themselves to pay to and for the Use of the Minister of the s^d Town the Sum of Ten shillings a year in Consideration of their home-Lotts, and if that should fall short of a maintenance then to make up the same by an equal Rate upon their Goods and other Improved Lands in such way and Order as the Country rate was raised. Which way & method was equal so long as the Inhabitants of the s^d Town continued upon their home-Lotts. But now so It is, may it please yor Excellcy and Honor^s That several of the s^d Inhabitants are removed from ther home Lotts (which are left destitute & unimproved, & thereby disenabled to pay any rate att all) to their second Division of Lotts which pay no Rates, and the Charge of the maintenance of the sd Minister wholly falls upon yor Petitioners to their great wrong & damage, and if not timely remedied by yor Excellcy & honor^s will be a standing & intollerable inconvenience, & matter of Division in the s^d Town, for that they are not able to bear the Charge thereof. And forasmuch as the s^d Town had never any settlement made by Law, but such an agreement as aboves^d which is neither binding nor Equal; and whereas s^d Town cannot agree among themselves how to raise their Ministers Sallary.

Yor Petitioners Therefore humbly pray That yor Excellcy & Honor^s will be pleased to take the Premisses into yor serious Consideration; and settle the inaintenance of the minister of the s^d Town in such methods & ways as to yor Excellcy and Honor^s. shall in yor great wisdom seem to be most equal just & Right & which may be binding upon them & their posterity for ever—

And yor Petitioners as in duty bound will ever pray &c.&c/

SIMON STEEVENS	NATHANAEL HUDSON	NATHANIEL SAWYER.
NATHANIEL WILDER	SAMUEL CARTER	JOSEPH WHELOCK
PETER JOULIN	DANIEL RUGE	JOHN GLAZIER
JOSIAH WHITE	CYPRYAN STEEVENS	GEORGE GLAZIER
SAMUEL BENNETT	BENJAMIN BELLOWES	THOMAS ROSSE
WILLIAM DIVOLL	JOHN JOHNSON	SAMUEL PRESCOTT
JONATHAN WHITCOMB.	JOSEPH GLAZIER	EPHRAIM WILDER.”— <i>Mass.</i>

Archives, vol. 11, p. 183.

* Executive Records of the Council, vol. 3, p. 464.

† *Mass. Archives*, vol. 122, pp. 192 and 226.

Of the agreement or "covenant" among the first settlers, the portion which related to the support of the ministry was as follows:—

"Memorandum, That wee whose Names are subscribed, vpon the Receiueing and acceptanc of our severall Lands, and Allotments wth all Appurtinances thereof, from those men who are Chosen by the Generall Court to Lay out and dispose of the Lands within the Towne of Lancaster heertofore Called by the name of Nashaway doe hereby Covenant & binde ourselves our heires Execut^{rs} & Assignes to the observing and keepeing of these orders and Agreements hereafter mentioned and Expressed.

first ffor the maintainanc of the ministree of Gods holy word wee doe Allowe Covenant and Agree that there be laid out Stated and established, and we doe hereby estate and establish as Church Land with all the prinillidges and Appurtinances therevnto belonging for ever, thirty acors of vpland and fortie acors of Entervale Land and twelue acors of meddowe with free Libertie of Commons for Pasture and fire wood, The said Lands to be improved by the Plantation or otherwise in such order as shalbe best Advised and Concluded by the Plantation without Rent paying for the same, untill the Labours of the Planters or those that doe improue the same, be fully satisfied. And wee doe agree that the Plantation or Select men shall determine the time, how Longe every man shall hold and Improue the said Lands for the profit thereof. And then to be Rented according to the yearly vallue thereof and paid in to such persons as the Plantation or Selectmen shall Appoynt to and for the vse of and towards the maintainanc of the minister Pastor or Teacher for the time being, or whomesoever may bee stated to preach the word of God among vs: or it may be in the Choyce of the minister to Improue the said Lands himselfe.

... And further we doe Engage and Covenant every one for himselfe his heires Execut^{rs} & Assignes to pay to and for the vse of the ministree abovesaid the s^{me} of ten shillings a yeare as for and in Consideracon of o^r home Lotts yearly for ever, our home Lotts to stand Engaged for the payment thereof, and what all this shall fall short of a Competent maintainance we Covenant to make vpp by an equal Rate vppon o^r Goods, and other improved Lands (not home lots) in such way and order as the Country rate is Raised. And in case of vacansy of a minister the maintainanc Ariseing from the Church Land and home Lotts abouementioned, shalbe paid to such as shalbe Appoynted, for the use of a scoole to be as a stock: or as stock towards the maintainanc of the minister, as the Plantation or Select men shall think meetest."—*The Early Records of Lancaster, Mass.*, pp. 27, 28.

This covenant contained a clause or paragraph providing that all differences should be ended by arbitration, under which Simon Willard, Edward Johnson and Edmund Rice, arbitrators, on the twenty-fifth of April, 1656, made an award, the twenty-second section of which was as follows:—

"22. *Ministrs maintainanc.* Our answer to the Pposition or querie about the ministrs maintainance our Conclusion is the towne shall presently begin and giue fiftie pounds by the yeare, And for the manor of the pay they ar to alow him their wheat at six pence $\frac{1}{2}$ bushell vnder the price, it is at the bay, And soe for other graine by this Pportion, And as god shall bee pleased to enlarge their estat soe they shall enlarge their answrably, And this to be raised according to the order incerted in the towne Booke."—*Ibid.*, p. 44.

Although the inhabitants were subsequently granted all the liberties of a township and by order of the General Court the bounds of this township were settled, and notwithstanding later provisions of law for the support of the ministry in places where that duty was neglected, it would seem that this covenant remained unrepcaled and unchanged down to the time of the petition upon which this chapter was based.

The above petition was read, first, in the House on the twenty-eighth of May, 1703. On the second of June the resolve which constitutes the first part of this chapter was passed and sent to the Council for concurrence, and was concurred in. On the following day a petition (which has not been discovered) by other inhabitants of Lancaster, praying for a confirmation of the aforesaid agreement, was read in the Council, and the order which constitutes the second part of this chapter, suspending the resolve, was passed and sent to the House, for concurrence, together with the latter petition, and on the same day it "was returned from that House with their agreement thereto."

The second session of the General Court began on the first day of September. Whether or not at this session a hearing was had upon the two petitions does not appear; but on the seventh the House passed the following order, which was sent to the Council for concurrence:—

"Ordered—That the Minister's salary in the Town of Lancaster, be Levved, and Collected of the severall Inhabitants by the same Rules, and in the same Proportions with the Province-Tax, for this present Yeare."—*Mass. Archives*, vol. 11, p. 184.

No vote of concurrence in this order is recorded, probably because of the order of the ninth of September proposed by the Council for continuing all unfinished business; but the ninth being the last day of the session, evidently in order to end this particular controversy, the Council passed the following vote of advice, which was accepted by the inhabitants as a practical settlement, although legally neither this nor the order of the representatives had any effectual operation upon the ancient agreement:—

"Sept. 9, 1703. Upon a representation made to the Board of a difference among the Inhabitants of the Town of Lancaster about the manner of rayseing their Ministers maintainance

Advised. That for this present year, they rayse the maintainance of their Minister upon the improved Lands, and other ratable Estate within the said Town, according to the Rule set for the Province Tax."—*Executive Records of the Council*, vol. 3, p. 482.

Chap. 7. This chapter is from archives, vol. 62, p. 439. It is recorded in council records, vol. VII., p. 390.

The proposal of Hill appears more fully in his petition printed in the note to the resolve of 1702, chapter 15. Nothing has been discovered to show the precise nature of his invention nor how far he succeeded in satisfying the committee. The twenty pounds paid by the province treasurer to Samuel Legg of the committee to defray the expense of testing Hill's invention does not appear to have been returned.

Chap. 8. This chapter is from council records, vol. VII., p. 395, and archives, vol. 9, p. 152.

The petition mentioned in the preamble to this chapter was as follows:—

"To his Excellency Joseph Dudley Esqr Capitaine Generall & Comander in Chief in & over Her Majestys Province of the Massachusetts Bay in New England The Hon^{ble} Council & Representatives Convened in the Great & Gen^l Court att Boston on the Twenty sixth Day of May Anno. 1703 —

The Petition of John Saffin Esqr in all Humillity Presenteth.

As the Parliament of England is the supream Council of the Nation, and the sovereign Remedy of all grievances, oppressions, & Male Administrations of the Greatest Peers of the Realm, and the Highest Courts of Judicature even so this great & Gen^l Court or Assembly is (as yo^r Petition^r humbly conceives) an embleme or similitude of that Power Derived from the Royall Charter granted to the People of this Province for the Redressing of the grievances oppressions Male Administrations and Tort actions of the greatest Persons or Courts of Judicature subordinate to this Grand Assembly. And therefore it is, that yo^r humble Peti^r (finding no other Remedy) is Imboldned humbly to Address this great Council, & Implore their Ayd, that they would be pleased to grant him Audience in a matter wherein he is greatly Injured & oppressed; and in such a manner he presumes there hath not been the like done in New England. The thing in brief is this. Yo^r Peti^r hath a certaine Negro man named Adam that is withheld or taken from him yo^r Peti^r under countenance of authority (not collour of law) w^{ch} Negro hath sooner or later cost yo^r Peti^r above Threescore pounds. The pretended matter in Controversy hath been twice before no less than two Justices of the Peace, and at four severall Superior Courts, & continued above these two years last past, and yet is not Determined, nor doth yo^r Peti^r know when it will. in the mean time yo^r Peti^r is made a meer Vassall to his slave in being at continuall cost and charges about him to supply him with all manner of Necessarys, as Cloaths, Bedding food and Phisick, and attendance when lately he had the small pox. Also to pay the keeper for his keeping in Prison Three Months where he was by the Quarter Sessions committed for his outrages & murderious attempts at the Castle: generally known, (a Narrative whereof being in Print.) yet for all this the said vile Negro is at this day set at large to goe at his pleasure, in open Defiance of me his Master in danger of my life, he having threatned to be Revenged of me and all them that have cross't his turbulent Humour. to the great scandall and evill example of all Negros both in Town and countrey whose eyes are upon this wretched Negro to see the Issue of these his exorbitant practises.

The Premises Considered yo^r Peti^r doth humbly Implore this Hon^{ble} Assembly to grant Redress by vouchsafing yo^r Peti^r a hearing either before this Hon^{ble} Assembly or by a Comitee as in yo^r wisdomes you shall Deeme most convenient, the various Circumstances of those Transactions being so large as to exceed the limits of A petition in writing; And also that upon the understanding the Justice of yo^r Peti^r Cause yo^r Hon^{rs} will be pleased to doe him Right in all Respects, by Restoring his said Negro to yo^r Peti^r that as an English subject he may Dispose of his said Negro, as he shall see cause for his own safty, and all other of her Majestys good subjects that may be exposed to any Detriment by the sd Negros villainous practises.

And yo^r Peti^r as in Duty bound shall Pray &c.

JOHN SAFFIN." — *Mass.*

Archives, vol. 9, p. 152.

This petition was read in the House on the first of June. It was read again on the third, when the proceedings which appear in the printed chapter followed, and the order, as framed in the Council, was consented to by the Governor.

The contention between Saffin and his negro slave grew out of the following instrument which Saffin executed in 1694:—

"Bee it known unto all men by these presents That I John Saffin of Bristol in the Province of the Massachusetts Bay in New England out of meer kindness to and for the Encouragement of my negro man Adam to go on chearfully in his Business & Employ^{mt} by me now putt into, the Custody Service and command of Thomas Shepherd my Tenant on boundfield Farm in Bristol afores^d for and During the Terme of Seaven years from the Twenty fifth day of March last past 1694 — fully to be compleat and Ended or as I may otherwise See cause to Imploy him. I say I doe by these presents of my own free & Voluntary Will & pleasure from and after the full end & Expiration of Seven years beginning on the Twenty fifth day of March last past and from thenceforth fully to be compleat and Ended, Infranchise clear and make free my sd negro man named Adam to be fully at his own Dispose and Liberty as other free men are or ought to be according to all true Intents & purposes whatsoever. Allways provided that the sd Adam my Servant do in the mean time go on chearfully quietly and Industiously in the Lawfull Business that either my Self or my Assigns shall from time to time reasonably Sett him about or imploy him in and doe behave and beare himself as an Honest true and faithfull Servant ought to doe during the Tenm of Seven years as aforesaid In Witness whereof I the sd John Saffin have hereunto sett my hand and Seal this Twenty Sixth day of June 1694 — In the Sixth year of their Maj^{ties} Reign

Signed Sealed & Deliv^d in the p^{se}nce of

RACHEL BROWNE, her marke.

RICH^d SMITH

SAMUEL GALLOP

JOHN SAFFIN (Seal)

This Instrument abovewritten was Entred in the first book for Wills and Inventories page the last, November 15th 1694 — by JOHN CARY Recor^t." — *Suffolk Court Files.*

This writing Adam seems to have regarded as an effectual manumission after the expiration of the seven years therein limited. Hence he felt justified, as a free man, in acting towards his former master in the independent manner which the latter in his complaint described as "turbulent, outrageous and insolent."

Many obscurities regarding the controversy between Adam and his master have been cleared by the recovery of a tract* published by Saffin, in reply to Sewall's "Selling of Joseph,"† in which he gives numerous interesting details that agree with what is learned from other sources. According to Saffin, Adam had not fulfilled the condition upon which his liberty was promised, and being at Boston, in March, 1701, and ordered by his master to meet him at Bristol, and to proceed thence to Swansey in the service of another to whom Saffin had engaged him, he not only refused to go, but improved the opportunity which his master's absence afforded, to leave Saffin's house in Boston, furtively taking with him his clothing, and going about town at pleasure.

Saffin, upon his return, received from his former slave, instead of the deference and submission he claimed, a notice, haughtily delivered, that he must appear before Mr. Justice Sewall. Saffin accordingly waited upon the judge whom he found in conference with Mr. Secretary Addington. Sewall severely animadverted on his conduct, and produced the deed of manumission. The due execution of this instrument Saffin acknowledged, upon which the two magistrates concurred in advising him to give the negro his liberty. They intimated that Adam's performance had been substantially according to the terms stated in the instrument which, as "Liberty was a thing of great value, even next to life," should be liberally construed, especially in this case, and that a perfect compliance should not be expected, since "there was much to be allowed to the behaviour of Negroes, who are so ignorant, rude and brutish."

Saffin, nevertheless, persisted in his determination to hold the negro, and, the next day, he induced Lieutenant-Colonel Penn Townsend, a member of the Council, to accompany him to Sewall's house, professing to believe that his servant could be lawfully coerced into submission by the joint determination of two magistrates. Though the magistrates thought otherwise, Townsend consented to bind Adam over (he being present) to answer to a complaint for an offence the nature of which appears in the record of proceedings of the court, given below.

The next Court of Sessions for Suffolk was to be held in July, but the stated assizes were held at Boston two months earlier; so, in order to bring the complaint (which involved the question of Adam's enfranchisement) to a speedy issue, he was required to appear and answer at the May term of the Superior Court, and Dick, a free negro, was accepted as surety in his recognizance. Accordingly, when the court sat, the complainant and respondent appeared; but though papers were read, and the case debated, the matter was put over, or, as Saffin states it, "transmitted to the next Superior Court to be held at Bristol." The complaint was not entered of record, and though the reason assigned by Saffin for the court's declining to proceed with the trial was that witnesses were not present to support by their oaths the depositions they had previously made in writing, it seems more likely that the case was thought to be properly triable in Bristol County, where, if Saffin had any case, both parties were domiciled.

Between the term at Suffolk and the term at Bristol, Saffin, by some means, succeeded in getting promoted from the bench of the Inferior Court of Common Pleas to that of the Superior Court of Judicature;‡ and on the ninth of September he sat with his associates at the stated term in Bristol, during which, upon his complaint, Adam was tried at the suit of the king.

From the depositions on file it is clear that though at the trial there was conflicting testimony upon the main issue, the preponderance of evidence as to character was in Adam's favor. Some of the depositions for the complainant were mainly hearsay, and one, at least, was rejected by the court, probably for this reason and also because the prisoner was not present when it was taken. The complainant was allowed to put in the following document in proof of his charges against the accused:—

* "A Brief and Candid Answer," etc., to Sewall's tract. Only one copy, and that not perfect, is known to be extant. It was purchased by its present owner, Daniel Parish, jun., Esq., of New York, at the Brinley sale. The first part was printed in Moore's History of Slavery, hereafter mentioned.

† Reprinted in Proc. Mass. Hist. Soc., 1863-4, pp. 161-5, and also in Dr. Moore's History of Slavery in Massachusetts, 1866.

‡ August 1, 1701. He was nominated by a bare majority of the Council. This was after the deaths of Bellomont and Stoughton. Saffin was probably originally of Scituate, and married, December 2, 1658, Martha Willett, at Plymouth. She, with two of her children, died of the small-pox in 1678, and, in 1680, he married Elizabeth, widow of Peter Lidget. She died Nov. 1, 1687, and he married for his third wife Rebecca, daughter of the Rev. Samuel Lee and sister of Rev. Cotton Mather's third wife. This last union proved an unhappy one, and ended in a separation shortly before his death. He appears to have been for many years after his marriage an enterprising merchant of Boston and was a deputy from that town to the General Court and the last speaker of the colonial assembly. Some time between 1687 and 1689 he removed to Bristol, where he had previously held land and had been engaged in business. He represented Bristol in the general court of Plymouth in the latter year, and served on important committees. Upon the union of the colonies in 1692, he was appointed the judge of probate and the first justice of the Inferior Court of Common Pleas for Bristol County, and from 1693 to 1699, inclusive, he was also annually elected councillor. He was again elected in 1703, but negatived by Dudley. He seems to have been a man of extraordinary force and ability. His reply to Judge Sewall's famous anti-slavery tract, "The Selling of Joseph," which he regarded as a rebuke of his treatment of his negro slave Adam, contains all the most cogent arguments that have been since put forth in defence of slavery, and shows the writer to have been a skilful polemic and not unfamiliar with literature. To this tract he appended his version of his difficulties with Adam.

He had the misfortune to survive his eight sons, the last of whom, according to Sewall (Diary, vol. 1, p. 192), was buried October 15, 1687, about the time that tidings arrived from London of the death of another son, Thomas. The latter, "much favored of his prince," died of the small-pox at the age of twenty-three, and was buried in the churchyard of Stoney. His curious epitaph is given by Henley in No. 518 of the Spectator, — his name being disguised as "Thomas Snapper" or "Sapper." Saffin died at Boston, July 23, 1710, and was there buried in his family tomb.

"Bristol 12th of Jan^y 1699—

Whereas I Thomas Shepherd of Bristol having hired a certain Farm of John Saffin Esq^r called boundfield partly in Bristol afores^d & partly in Swansey & having had with the Stock of cattle and Sheep a certain negro man named Adam to Serve me into the bargain during the Lease Doe hereby declare that he the said negro man having been a very disobedient Turbulent outrageous and unruly Servant in all respects these many years and hath carried himself so obstinately both to my Self Wife & children that I cannot keep him nor bear with his evil manners any Longer and therefore request Mr Saffin his master to take him again into his custody and release me of him be the s^d negro being such a Vile Refractory fellow that I dare no longer keep him in my House, and have therefore by his s^d Masters consent & permission placed and hired him to Mr John Wilkins of Bristol with him to Serve dwell & abide from the day of the date hereof till the Twenty fifth day of March next. In Witnesse whereof I have hereunto Sett my hand and Seal this Twelfth day of January 1699—

Signed Sealed & Delivered

in the presence of us—

RICH^d JENKINS

JOS^{ph} ANDREWS—

THOMAS SHEPHERD and a Seal

Bristol ss — Memorandum — Thomas Shepherd the Subscriber to the abovementioned Instrum^t personally appearing before me under written one of his Majesties Justices of the Peace for the County of Bristol this 11th of Sept^r 1701 and acknowledged this Instrum^t to be his Act & Deed, In the Thirteenth year of his Maj^{ty}s Reign—

NATHANIEL PAINE."—*Ibid.*

The character of the accused as given in this paper was not only insufficiently supported by the joint deposition of Shepherd and his wife, but Wilkins, to whom Adam was bound out by Shepherd, testified to his sobriety and fidelity; and there were several other witnesses to his general good conduct. Nevertheless the jury found him guilty. The court continued the case, under advisement, "until the next Superior Court to be holden for this county" (that is, for one year), and in the mean time remanded Adam to the custody of his master.

From Sewall's memoranda it appears that the court were in doubt on the question whether or not Saffin's interest in the issue was such as to disqualify him from sitting in the case. It would seem, also, from the same authority, that Saffin had been guilty of other equally grave and more insidious irregularities in the management of this case. Sewall declares that he had tampered with the foreman of the jury by whose verdict Adam was convicted, and had connived at placing upon the panel James Smith, one of his tenants; which conduct was apparently proved to the satisfaction of his associates. Saffin avers that, upon his motion that judgment be entered according to the verdict, his brother judges assented, and agreed that he should have the custody of his negro upon his promising "not to send him out of the Country," but that the suspension of judgment for further advisement was a subsequent determination made without his privity or consent, whereupon he claimed he was released from his promise.

As soon as the form of the judgment had been finally settled, Saffin, in open court, ordered Adam, over whom the decree of the court had given him control, to proceed, forthwith, to Boston, and to resume work on Castle Island under Captain Timothy Clarke. About a month later, the unfortunate negro got into fresh trouble by violently resisting Captain Clarke, who, in attempting to discipline him for disobedience and incivility, knocked his pipe from his mouth and struck him with his stick. Saffin seized upon this incident as a pretext for ordering his incorrigible servant to be transported out of the province; but this scheme failed, on account of a caution given by Addington who was consulted as to the legality of the proceeding. The Secretary, however, so far gratified Saffin as to order the commitment of Adam, to answer at the quarter sessions for his violence. The loss of the records of the Court of Sessions leaves it doubtful what disposition the court made of this case. It is certain that the event did not interfere with the earlier proceedings instituted by Saffin.

Before the next term of the court in Bristol, Dudley had arrived with the commission of governor. Though the new Governor's principles were extremely loose in regard to taking gratuities for service rendered in an executive capacity, and notwithstanding his career as chief justice in New York shows that he did not scruple to follow the worst precedents of judicial tyranny, he had never been known to excuse in a judge such offences as Saffin was charged with. Possibly this may account for the fact that Saffin was not among the judges of the Superior Court selected and commissioned by Dudley.

When the case of *Dom. Rex v. Adam* came up for consideration by the court, in September, 1702, it appearing that the negro was sick with the small-pox, it was again put over—this time to the November term, in Suffolk. Sewall* records that the "Court were of Opinion that Adam's Freedom could not be Tryed by Mr. Saffins complaint," evidently upon the ground that, though the suit was brought in the name of the king, Saffin was the real party in interest—the virtual plaintiff.

The complaint against him having thus failed, Adam, at the same term, "preferred a petition for his Enfranchisement" (which unique and interesting paper, undoubtedly prepared by Newton, has not been found), at the same time exhibiting to the court the instrument of emancipation executed by Saffin. The court thereupon assigned Thomas Newton and Joseph Hearne,† two of the ablest lawyers in the province, as his counsel, "in order to his Regular proceeding in the affair." The record of the case concludes, "This Court Judging it proper for the Petitioner first to be heard at the Inferiour Court

* Diary, vol. II., p. 64.

† Both admitted with the first batch of attorneys sworn in before the Superior Court of Judicature, June 24, 1701. See note to private act, number twenty, Province Laws, vol. VI..

of Common pleas next to be holden for this County and that the Petitioner in the meantime be in peace until the Coming of the Justices.*

In compliance with this decision and intimation from the court, Adam brought suit against Saffin, in the Common Pleas, as follows:—

"Suffolk ss Anne by the Grace of God of England Scotland France & Ireland Queen Defender of the faith &c To the Sheriff of our County of Bristol his undersheriff or Deputy. Greeting. We Comand you that you Summon John Saffin of Bristol within our County of Bristol Esqr (if he may be found in your precinct) to appear before our Justices of our Inferiour Court of Common Pleas to be holden at Boston within & for our sd County of Suffolk on the first Tuesday of January next then & there in our sd Court to answer to Adam negree of Boston with in our sd County of Suffolk Labourer in a plea for that whereas the sd Adam hath Complaind unto us That he being a freeman and ready to prove his liberty, the sd John Saffin claimeing him as his slave, doth unjustly vex him: To the damage of the sd Adam negro as he saith the sum of one hundred pounds, weh shall then & there be made to appeare with other due damages And have you there this writt with your doings therein Witness Elisha Hutchinson Esqr at Boston this 14th day of Decemb^r in first year of our Reigne Annoq; Dom 1702.
ADDINGTON DAVENPORT Cler."—*Ibid.*

Upon which writ the sheriff of Bristol made the following return:—

"Bristol ss By Vertue of this Writt to me Directed on y^e 18th day of December 1702 I sumoned the abovesaid John Saffen Esqr to appear at the Day & place above mentioned as this writt Requiers & I Left a coppi of this writt with him at his hoves in Bristol

p^r SAM^l GALLAP Sheriff."—*Ibid.*

The record shows that this writ abated, probably because it was held that the court for Bristol County had exclusive jurisdiction of the parties. The judgment of the court was as follows:—

"It is considered by the Court That y^e sd Summons or writt shall abate for y^e same is not regularly brought before this Court."—*Records in the office of the clerk of the Superior Court in Suffolk County.*

The justices present were Elisha Hutchinson, John Foster, Penn Townsend and Jeremiah Dummer.

From this judgment the plaintiff appealed, but the court refused † to allow the appeal.

Saffin, it seems, now renewed his threat to consign Adam to some one living out of the province or who would remove him from Massachusetts, whereupon Mr. Newton invoked the protection of the Superior Court for his client in the following petition:—

"To the hon^{ble} the Justices of her Majties Superiour Court of Judicature now held at Boston for the County of Suffolk being the 8th day of May 1703.

Thomas Newton of sd Boston humbly sheweth

That whereas yor hono^{rs} at the superiour Court of Judicature held at Boston for the sd County on the first Tuesday of November now last past, upon the petition of Adam a negro, late slave to John Saffin Esqr for his freedom appointed the sd Thomas Newton & Mr Joseph Hearne attorneys for the sd Adam and that in order thereunto the sd attorneys should comience an accou for him agt the sd John Saffin at the then next inferiour Court of Comon pleas to be held at Boston for the sd County for the Tryall of his liberty And the sd Thomas Newton and Joseph Hearne accordingly brought forward an accou for the sd Adam agt the sd John Saffin at the inferiour Court of Comon pleas held at Boston on the first Tuesday of January last, where the sd accou was dismissed and an appeal to this Court thereupon denyed And forasmuch as the sd Adam dayly pursues yor subscriber for the Tryall of his sd liberty the sd Adam being dayly threatned by the sd Mr Saffin, to be sent out of this province into forreigne parts to remaine a slave during his life.

Yor subscriber humbly prays yor hono^{rs} will be pleased to take the pmisses into yor Consideration, and give such further directions therein as to yor hono^{rs} shall seem meet

And yor subscriber will ever pray &c

THO: NEWTON."—*Suffolk*

Court Files.

The following is the record of the judgment or decree of the court upon this petition, all the justices being present:—

"Upon Reading the Petition of Mr Thomas Newton relating to Adam negro late Slave to John Saffin Esqr That notwithstanding the former Order of this Court he is pursued by Mr Saffin as his Slave and has Endeavoured to Transport him beyond Sea. Its therefore Considered by the Court That Adam negro be in peace untill by due process of Law he be found to be a Slave."—*Records of the Superior Court of Judicature, 1700-1714, fol. 100.*

Saffin now turned to the Legislature for the remedy which he had failed to obtain in the courts, and presented the petition which is printed in the beginning of this note. When the petition was before the Council, Newton appeared in behalf of Adam ‡ and entered the following plea:—

* Records of the Superior Court of Judicature, 1700-1714, fol. 84.

† It was not judicially determined until a year later that appeals lay from judgments on pleas in bar or abatement. The decision was subsequently confirmed by statute. See notes to chapters 47 and 89, *post*.

‡ Sewall, whose sympathies continued strong for the negro, indignantly minuted in his Diary under date of June 8, 1703, the following:—

"Adam is again imprison'd to be Tryed at Suffolk Sessions. Trial order'd by the Genl Assembly.

Superannuated Squier, wigg'd and powder'd with pretence,

Much beguiles the just Assembly by his lying Impudence,

None being by, his ^{bold} Attorneys push it on with might and main

By which means poor simple Adam sinks to slavery again."—*Fol. II., p. 79.*

From which verse it appears that, in the honest judge's eyes, Saffin's offence had been greatly aggravated by his wearing a periwig—the good judge's particular abomination.

"The s^d Adam Negro pleads that he oweth the s^d John Saffin no Service but is free by Vertue of an Instrum^t under the hand and Seal of the s^d John Saffin.

THO^s NEWTON P^r Adam negro." — *Suffolk*

Court Files.

At the Court of Sessions held in Suffolk in August the case was tried, as ordered by the Assembly, and Adam was again convicted, and once more appealed, as shown by the following copy of the record:—

"Suffolk ss.—*Anno Regni Reginae Annae nunc Angliae &c /Secundo—*.

At an Adjournment of a Court of General Sessions of the Peace held at Boston for the County of Suffolke on the third day of August *Anno Domini* One Thousand Seven hundred and three—

Adam negro's
Tryall

Whereas John Saffin Esqr by his Petition to the Great and General Court or Assembly for Her Maj^{ties} Province of the Massachusetts Bay held at Boston upon the Twenty sixth day of May last, did Insinnate that a certain negro man named Adam is withheld or taken from him &c/ upon which he obtained an order of the s^d Great & General Court that the matter be heard before the next Court of General Sessions of the Peace for the County of Suffolk—In Pursuance whereof the s^d John Saffin & the s^d Adam negro now appeared, and the s^d Adam by Thomas Newton his attorney pleaded that he oweth the s^d John Saffin no service butt is free by virtue of an Instrument under the hand and seal of the s^d John Saffin; and the allegations of both parties being fully heard the matter was committed to the Jury who were sworn to try the same and returned their verdict therein upon oath, That is to say—they find that the s^d Adam negro hath not performed the condition for which he was to be Enfranchized & therefore is to continue a servant to his s^d Master. It's therefore considered by the court That the s^d Adam negro hath not performed the condition for which he was to be Enfranchized and therefore is to continue a servant to his s^d Master; The s^d Adam by his afores^d Attorney appealed from this Judgment or sentence unto the next Court of Assize and General Goal delivery to be holden for this county and Entred into Recognizance with sufficient sureties for his appearance and prosecuting his Appeal there with Effect and for the abiding and performing the order or sentence of the s^d court; and for his good behaviour in the mean time." — *Records of the Court of Sessions, in the office of the clerk of the S. J. C. for the Commonwealth.*

The defendant's reasons of appeal, prepared by Adam's attorney and given below, sufficiently show the course of the proceedings and the grounds upon which he based his claim to freedom:—

"Suffolk ss The Reasons of appeale of Adam negro appell^t ag^t John Saffin of Bristol in the County of Bristol Esqr Defend^t from the Judgm^t or Sentence of her Maj^{ties} Justices of her Maj^{ties} Court of general Sessions of the peace held at Boston for the County of Suffolk on the first Tuesday of August 1703, by adjournm^t from the first Tuesday of July foregoing. To the hon^{ble} Justices of her Maj^{ties} Court of Assize and general Gaol Delivery to be held at Boston for the sd County of Suffolk on the first Tuesday of November 1703.

That whereas at the s^d Court of general Sessions of the peace, the sd appell^t had a tryall for his freedom & Claimed the same by vertue of an Instrum^t under the hand & seal of the Defend^t bearing date the 26th day of June 1694. Yet sentence was given ag^t him, wch is wrong & erroneous and ought to be reversed for the reasons following, viz!

1st That whereas at the sd Court of general Sessions of the peace sentence was given for the Defend^t ag^t the appell^t when by Law the same ought to have been rendred for the appell^t ag^t the Defend^t!

2nd That it is evident, that the appell^t served the Defend^t faithfully & honestly during the Term of seven years from the 25th day of March 1694. and ought to have his freedom & liberty pursuant to the Instrum^t abovementioned.

3rd That there is no penalty in the sd Instrum^t if the appell^t did not serve the Defend^t faithfully during the abovesd Term of seven years, nor doth he thereby forfeit his freedom or liberty given him for that there is no proviso^e or Condi^cion in the sd Instrum^t that if the sd appell^t did not faithfully serve the Defend^t & his assigns during the sd Term, then he should forfeit the freedom or liberty thereby intended and the word provided mentioned in the sd Instrum^t is a considera^cion and not a Condition, and the Enfranchisem^t is positive & not conditionall and liberty being a privileged the greatest that can be given to any man save his life, it ought not to be forfeited upon trivial and frivolous matters as is pretended by the Defend^t! all wch matters & things (with what further may be alleged by the Defend^t!) being duly weighed & considered by the honord Court and the Gent^l of the Jury, the appell^t hopes they will see good reason to Reverse the former sentence and give him his freedom

THO: NEWTON attorney for the appell^t!." — *Suffolk*

Court Files.

The above reasons were received into the clerk's office October 26, 1703, and were argued at the term begun on the second of November, at which term, by the verdict of the jury and the judgment of the court, Adam secured his liberty. The record is as follows:—

"Suffolk ss. *Anno Regni Reginae Annae nunc Angliae &c Secundo—*.

At Her Majestys Superiour Court of Judicature, Court of Assize & General Goal Delivery, Begun & held at Boston, within & for the County of Suffolk on Tuesday the second of November. 1703—

By the Hon^{ble} Samuel Sewall Esqr
John Hawthorne Esqr
John Walley, Esqr and
John Leverett Esqr. } Justices.

Adam vs Saffin
Esqr

Adam negro Appell^t vs John Saffin Esqr Appellee. from a Judgment or sentence of a Court of General Sessions of the Peace held at Boston by adjournment on the Third day of August

1703. for that whereas the s^d John Saffin by his Petition to the Great and General Court or Assembly for Her Majestys Province of the Massachusetts Bay held at Boston upon the 26th day of May last did insinuate that the s^d Adam is withheld or taken from him &c Upon which he obtained an Order of s^d Court that the matter should be heard before the Court of General Sessions of the Peace for the County of Suffolk. At which s^d Court Judgment was rendered that the s^d Adam negro had not performed the Condition for which he was to be Enfranchised & therefore to Continue a servant to his s^d master. Both Parties now appearing. The Judgment of s^d Court Reasons of appeal & all things touching the same being fully heard the whole was Committed to the Jury, who were sworn to try the same & Returned their verdict therein upon Oath That is to say They find for the appellt Reversion of the former Judgment & Cost of suits. Its therefore Considered by the Court That the s^d Adam & his heirs be at peace & quiet & free with all their Chattles from the s^d John Saffin Esq^r & his heirs for Ever." — *Records of the Superior Court of Judicature, 1700-1714, fol. 114.*

After this there was little hope for Saffin of gaining his ends. Still he resolutely presented his grievances to the Legislature at the third session in the following petition: —

"To his Excellency Joseph Dudley Esq^r Govern^r Capt Gen^l and Command^r in Chief in & over Her Ma^{ties} Province of the Massachusetts Bay in New England &c. the Hon^{ble} Council & House of Representatives Now Assembled Novemb^r 15th 1703

The Petition of John Saffin Esq^r most humbly Sheweth

That there is a certaine Negro man Named Adam Servant to yo^r Petition^r who hath by his vile behaviour Expos'd yo^r Peti^r to very much trouble and Charge above two years & half last past having been at no less then five Superior Courts, & two Inferi^{or} Courts seeking to Obtaine his freedom under the pretence of A writing under the hand of yo^r Peti^r when he lett his farme at Bristol to Thomas Shepard with the said Negro, knowing him to be a Desperate Dangerous Villaine, and of a Turbulent humour I Endeavored to Oblige him to his Duty, and thereupon promised his freedome under my hand att the End of the Terme upon the Conditions in the words following Viz^t allways Provided that the said Adam my Servant Doe in the meane time goe on Chearfully quietly & Industiously in the lawfull Business that Either my Self or my Assigns shall from time to time Reasonably sett him abovt or Employ him in, And Doe behave & abare himself as an honest true and faithfull Servant Ought to doe Dureing the Terme of Seven years as aforesaid. Now may it please yo^r Excellency and this Hon^{ble} Assembly the said Negro hath in no wise performed the Conditions on w^{ch} he was to be free But on the Contrary hath behaved him self Turbulently Neglegently Insolently and Outragiously both to yo^r Peti^r and his Tenant Thomas Shepard his wife and family, and Others where yo^r Peti^r hath placed him, So that he hath had no Profit but loss by him said Negro these Eight Years and upward but was faine to abate the said Tenant of his Rent for that cause, and in the mean time yo^r Peti^r hath been at continued great cost and Charges abovt the said Negro to this Day in providing him Cloaths Bedding Physick Attendance and all manner of Necessarys when he was lately sick of the Small Pox besides abovt Six pounds payed the keeper of the Prison for Charges when he said Negro was Comitted by the Court upon the Complaint of Capt Timothy Clark of the said Negro's outrage at the Castle in great Danger of the said Capt Clarks life w^{ch} was proved upon oath. Also the said Negro hath often times Threatened to kill yo^r Peti^r and lately told Mr Willard the keeper of the Prison that if he had Opportunity he would make no more to Twist or wring off the Neck of yo^r Peti^r then he would of a Snake all w^{ch} is upon Oath and more to the same Effect —

The Premises Considered yo^r Petition^r Doth humbly Implore this Hon^{ble} Assembly to grant Relief, and that he may have liberty to Review the Action and Judgment the said Negro hath lately Obtained for his freedome at this last Superior Court at Boston (Notwithstanding he was cast at two Courts before) And that according to yo^r wisdomes some Effectuall Order may be given that the said Negro may bee in safe Custody, and not goe at large at his pleasure, that the Person of yo^r Petition^r may under God, be in safty & secured from the Danger of his life threatened by that Notorious Villaine & also that yo^r Peti^r may be Reimbursed the Charges he hath been att abovt the said Negro upon all Occasions as aforesaid

And Yo^r Petition^r shall Pray &c.

JNO SAFFIN." — *Mass.*

Archives, vol. 9, p. 153.

This petition was read in the House, on the fifteenth, and on the nineteenth the representatives passed an order "that the petitioner have a review at the next Superior Court held at Boston and in the mean time the negro be of bonds with sureties for the peace and good behavior," which order was sent to the Council for concurrence. On the first of December this petition and order being read in the Council, it was "not concurred" in, but the Council voted that "the petitioner is referred to the law."

That Saffin found no further satisfaction is evident from the following entry in the Records of Boston Selectmen, which shows that, as late as June 18, 1711, Adam was recognized as free by the town authorities: —

"At a meeting of y^e Sel. men June y^e 18th. [1711.]

Pursuant to the Law of this Province Intituled An Act for Regulat^{ing} of Free Negro^s &c.

The S^d Sel. men do order and Require the Free Negroes of this Town hereafter named each one of them to give their Attendance, faithfully & diligently to worke on cleansing & Repairing the High wayes and other Services of this Towne, at Such time & place as the Select men, or Such person or persons whom they Shall employ therein Shall direct and order, for the Space of So many dayes as is here after Set down against each of their names respectively viz^t. for this present year.

Adam Saffin . . . 3^{days}. — 1701-1715, p. 137.

This name is second in the list, but several others followed.

Chap. 9. This chapter is from council records, vol. VII., p. 397. It has not been found in the archives.

The account mentioned in the preamble to this chapter is in archives, vol. 122, pp. 153-174.

Chap. 10. This chapter is from archives, vol. 119, p. 211. It is recorded in council records, vol. VII., p. 398.

This is the first account rendered by the province treasurer, of the trade (authorized by the act of 1699-1700, chapter 13) with the Indians in the eastern part of the province who had "recognized their subjection and obedience to the crown of England." The act, though temporary, was revived and continued, from time to time, by subsequent acts.

The resolve which constitutes this chapter originated in the House, and was sent to the Council, for concurrence, June 4, 1703. On the seventh it was concurred in and signed by the Governor.

Chap. 11. This chapter is from archives, vol. 70, p. 638. It is recorded in council records, vol. VII., p. 399. See resolves, 1702-3, chapter 2, and note.

Chap. 12. This chapter is from council records, vol. VII., p. 400. It has not been found in the archives.

The order in Council* for the payment of this allowance and also of the allowance made by chapter 35, *post*, was passed August 5, 1703, and the amount thereof and also the additional sums of fourteen pounds allowed by chapter 35, sixteen pounds allowed by chapter 72, and four pounds allowed by chapter 109, *post*, are charged in the treasurer's account † as paid, being a total of £36 10s.

Chap. 13. This chapter is from council records, vol. VII., p. 400. It is preserved in archives, vol. 3, p. 104.

There is no record nor memorandum expressly showing that the Council concurred in the amendment, proposed by the House, to this order; but the form of the entry sufficiently implies the acquiescence of the Board. Ordinarily, when the Council disagreed, its non-concurrence was recorded, or the record shows that the vote was sent back for reconsideration. After the expiration of the time limited by the amendment of the House, the matter came up again upon motion of the Council, which, on the twenty-sixth of July, passed and sent to the representatives a resolve authorizing the Governor, by and with the advice and consent of the Council, to transport such part of the militia of the province as they should find needful into the provinces of New York and New Hampshire, or into the colonies of Connecticut or Rhode Island ("or oblige them to march into the said provinces or colonies, respectively), for the assistance and defence of her majesty's subjects within the same." A clause limited the operation of the resolve to the end of the session of the General Assembly in May, 1704, and still another clause gave authority to oblige the militia to march through the province of New Hampshire "into the further parts of this province for their necessary defence and support." This resolve was read twice, in the House, on the twenty-seventh, and, on the twenty-eighth, the representatives "ordered a concurrence with the last paragraph [*i. e.*, the second clause above mentioned], only." Upon receiving this vote of the House, the Council returned it for reconsideration, and the Governor, by message, summoned the speaker and the representatives to the council chamber, where he "spoke to them concerning the bill for assistance to the neighboring governments." The representatives, however, seem to have adhered firmly to their vote, and no further action in this direction appears to have been taken until towards the close of the fourth session, when a resolve, probably identical with that last above mentioned, was sent by the Council to the House, for concurrence. The session was prorogued on the following day, and the subject seems not to have been pursued.

The "act" referred to in the preamble was undoubtedly the resolve of 1702, chapter 69.

Chap. 14. This chapter is from council records, vol. VII., p. 400. It is preserved in archives, vol. 70, p. 630.

The concurrence of the House with an amendment to this resolve appears to have been voted on the twenty-ninth of May — the day on which it was passed by the Council. The Secretary recorded the passage of the resolve as of the eighth of June, which indicates that on that day the Council concurred in the amendment, although there is no express record of concurrence.

Chap. 15. This chapter is from council records, vol. VII., p. 400. It is preserved in archives, vol. 62, p. 440.

Chap. 16. This chapter is from archives, vol. 40, p. 771. It is recorded in council records, vol. VII., p. 405.

By the first act ‡ establishing the Superior Court of Judicature, cases from Hampshire County, on appeal, or writ of error, were to be heard in Boston or Charlestown, and a Court of Assize and General Gaol Delivery was to be held in Hampshire County, "from time to time, as the Governor and Council, advising with the justices of the Superior Court, shall direct and appoint, according as occasion may be." By an act § of the next year a term of the Superior Court was to be held in Springfield, upon the last Tuesday of June, yearly; but this term was discontinued during King William's war, by an act ¶ passed two years later still. By the act ¶¶ passed and published June 19, 1697, the pro-

* Executive Records of the Council, vol. 3, p. 464.

† Mass. Archives, vol. 122, p. 101.

‡ Province Laws, 1692-3, chapter 33.

§ *Ibid.*, 1693-4, chapter 11, § 4.

¶ *Ibid.*, 1695-6, chapter 4.

¶¶ *Ibid.*, 1697, chapter 9.

visions of the act of 1692 above mentioned, respecting Courts of Assize, etc., in Hampshire County, were reenacted. The only court held under this provision, however, was held pursuant to the following order in Council :—

"Aug. 8, 1698. Upon information given by his Maj^y's Justices in the County of Hampshire, that one Sarah Smith of Deerfield lies in prison there for murdering of a Bastard Child late borne of her body, in order to a Tryal.

Pursuant to the Act for establishing of Courts, and upon advisement with the Justices of the Superiour Court of Judicature, Court of Assize & General Goale Delivery within this Province.

Ordered and Appointed. That a Court of Assize and General Goal Delivery, be held and kept at Springfield within the said County of Hampshire by the s^d Justices, upon Thursday the eighteenth of this present Month of August for the Tryal of the said Sarah Smith.

WM STOUTINGTON.—*Exec-*

utive Records of the Council, vol. 2, p. 552.

Sewall, who, with Winthrop and Cooke, held this court, has recorded an itinerary of his journey out and back, and an account of the trial.

By an act* passed June 26, 1699, sessions of the Superior Court in Hampshire County were resumed, and Springfield and the second Thursday in August, annually, were fixed as the place and time therefor. But as the first term of the Hampshire Court of Common Pleas, under the act† of the same year reestablishing that court, was not to be held until after the session of the Superior Court, and as all appeals, etc., of the last preceding term of the Common Pleas had been already provided for by the act of 1698, there was no business calling for a session in this county, of the Superior Court, that year. For want of business, also, the Superior Court did not sit in Hampshire the next year, as appears by the following entry in Sewall's Diary :—

"Aug^t 3. [1700]. . . . Between 3 and 4 I receiv'd a Letter from the Justices of Northamptonshire, i. e. Partrig, Parsons, and Hawley to notify us that there is no Business requiring our going to Springfield this hot wether. We are very glad to be thus fairly discharged from this long and tedious journey."—*Vol. II., p. 21.*

The terms for 1701 and 1702 probably failed for similar reasons; but to prevent appeals from the Inferior Courts (which continued to sit) from lapsing, the order which constitutes this chapter was passed.

See, further, chapter 43, *post*, and note.

Chap. 17. This chapter is from archives, vol. 70, p. 635. It is recorded in council records, vol. VII., p. 405.

It appears that the vote of concurrence in this resolve and the names added to the committee by the House were sent to the Council on the ninth and concurred in on the tenth.

The following entry shows the time for the visit appointed by the Lieutenant-Governor, and the subsequent proceedings that day :—

"July 13, 1703. His Excellency attended with a Committee of the Court went to view the Works of the Fortifications making at the Castle; And Nothing being Offered to the Council by the Representatives.

Adjourned Unto Tomorrow at ten in the Morning."—*Council Records, vol. VII., p. 406.*

Ten days later the committee submitted their report as follows :—

"Wee the Committee appointed by the Great & General Assembly to Repair to the Castle to view the present state of the work, what is yet absolutely necessary to bee done, & to see the Acc^t of the expence of ye last five hundred pounds Granted by this Court for that service

In Obedience to said order wee went to the Castle & find that instead of the wall that fell down there is now a substantial wall built, that it is hoped will answer the end it was built for & the whole of that great & chargeable work drawing towards a conclusion but yet there remains several things to be done & finished that wee iudge of absolute necessity viz : The finishing ye platforms & Carriages both in ye vpper & Lower fortifications, The finishing the South curtaine, The Lodgings for the souldiers within the Castle ye buildings on each side the Armory for accomodation for a Chappel a kitchen & Lodgings The Remaining Earth work Sod work & about 600 stocados to be sett down more for finishing the lines, Lead for Covering the four Centry boxes, provisions for work men while sd work is about

There is alsoe proposed Two vaults in two of the Bastions one for a prison & the other for stores w^{ch} may be of vse & done cheaper now then it can be done afterwards

There is alsoe proposed a Guard Room at ye Sth Est flanker w^{ch} if not built, if ever alarmed, is a building of great vse & men would find a great want off

Wee have alsoe Received a General Acc^t from m^r Brattle w^{ch} what charge hath occurd since, ye province will be about 200^u in debt for ye work at the Castle & materials provided for the finishing the Remaining work a more perticuler Acc^t wherof he will give when called for, the 500^u last granted with ye ballance of the former Acc^t hath been laid out in building a wall instead of that w^{ch} fell down building an Hospital in Bricks Timber plank & other materials paying of workmen Labourers provision & The Brick work on ye Castle walls many of ye Carriages done & ye platforms Att the Battery or lower work laid;

Wee are of opinion yt for ye paying of the 200^u ye province debt already contracted & the Compleat finishing of all above proposed it will require 900^u or a 1000^u, & Coll: Roomer offers that for 1000^u he will discharge the debt & finish the work & give security to perform the same & if it Cost more hee will pay it himself & if there be any left he

* Province Laws, 1699-1700, chapter 3.

† *Ibid.*, chapter 2.

will return it for ye use of the province, And it is pittie but soe noble a work soe near finished should not be compleated soe as if occasion it might best Answer the end of soe great an expence, if The Two vaults & gnard Room be not now made there may be about a hundred pounds deducted

This Humbly offered By JOHN WALLEY by order of y^e Committee." — *Mass. Archives*, vol. 70, p. 636.

This report was read first in the Council on the twenty-third of July and accepted by the Board "and the gentlemen thanked for their pains." The report and vote were then sent to the House for concurrence. There they were read on the same day and again on the twenty-sixth, but no record of further action thereon has been discovered.

Chap. 19. This chapter is from archives, vol. 47, p. 241. It is recorded in council records, vol. VII., p. 409.

The resolve which constitutes this chapter originated in the House, where it was passed on the fifteenth. It was concurred in by the Council on the sixteenth. The act (1703-4, chapter 5), which the Secretary drew in accordance with this resolve, was passed and published on the thirty-first. The former act was 1701-2, chapter 15, continued and modified by the acts of 1702, chapters 1 and 7.

Chap. 20. This chapter is from council records, vol. VII., p. 408. It is preserved in archives, vol. 62, p. 441.

The following is the petition mentioned in the preamble to this chapter:—

"To His Excellency Joseph Dudley Esq; Cap^t: Generall and Governour in Cheafe in and over her Majesties Province of the Masachusets Bay in New England, and her Majesties Hon^{ble} councill and the Hono^{ble} Members of the house of Representatives convened at Boston The 7th July 1703

The Humble Petition of Beniah Titcomb of Newbury

Sheweth—

That whereas your Petitioner being owner of the good Ketch caled the Newbury which was Taken by Guelliam Le'Fanche a frenchman wth a letter of Mart of Twenty Gunns and fifty men the 26th day of Aprill last past at sea in the Lar^d of 27^d 50^m coming from the Island of Antegua bound for Newbury afores^d and was Plundered and Rifled by the s^d frenchman; of many things to a considerable Value and your Petition^rs son being supra Cargoe and mate of said Ketch was forced to buy her at an extreame Rate and the then Master Robert Kenball gone to france a Hostage for the payment of said mony and Yor Petitioner haneing entered at the office at Salem what goods Remained on Board (after s^d frenchman had left her) at her arriual in Newbury being forty hoh^ds of Malasses three Cask of sug^r Two Bags of cotton wool the Impost of which amounted to fifty shillings Yor Petitioner doth Humbly pray that the s^d fifty shillings for Impost may be abaited him wherby some of his losse may be Repaired and Yor Petitioner shall as in duty bound ever Pray &c

BENATAH TITCOMB." — *Mass.*

Archives, vol. 62, p. 441.

This petition was read first in the Council on the sixteenth, and the vote passed thereon, which was concurred in by the House on the same day, was simply "and the prayer of the petition granted." From this the Secretary constructed the preamble and order which constitute this chapter.

Chap. 21. This chapter is from archives, vol. 121, p. 117. It is recorded in council records, vol. VII., p. 409.

The first delegation by the General Court of authority to lay out and change highways was by the following order passed at the session in March, 1634-5:—

[At a court begun and held March 4, 1634-5.] "Whereas there hath bene a complainte made to this Court that many highe wayes in the country are inconveniently layde out, it is therefore ordered, that the Court of Assistants shall haue power to lay out such high wayes as are wanting, & rectifie those that are amisse." — *Mass. Colony Records*, vol. I., p. 141.

In 1639 further provision was made for relocating and improving highways by committees chosen by the several towns who were to coöperate in the work under the following order:—

Nov. 5, 1639. "Whereas the high wayes in this iurisdiction have not bene layd out wth such conveniency for travellers as were fit, nor as was intended by this Court, but that in some places they are felt too strait, & in other places travellers are forced to go farr about, it is therefore ordered, that all high wayes shall bee layd out before the next Generall Court, so as may bee wth most ease & safety for travellers; & for this end, every towne shall chouse 2 or 3 men, who shall ioyne wth 2 or 3 of the next towne, & these shall have power to lay out the high wayes in each towne where they may bee most convenient; & those w^{ch} are so deputed shall have power to lay out the high wayes where they may bee most convenient, notwithstanding any mans propriety, or any come ground, so as it ocaation not the puling downe of any mans house, or laying open any garden, or orchard; & in comon grounds, or where the soyle is wet or myrre, they shall lay out the wayes the wider, as 6, or 8, or 10 rods, or more, in comon grounds; provided, that if any man shall suffer any extraordinary damage in his improved grounds, by execution of this order, the towne shall make him some reasonable satisfaction; provided, also, that if any case shall fall out wherein those that are deputed cannot agree, it shalbee referred to the determination of this Court; & if any person shall finde himselfe iustly greived wth any thing w^{ch} the said persons deputed shall do, hee may appeale to this Court, or the Court of Assistants, who shall have power to determine the cause; but if the party shalbee found to have complained wthout iust cause, hee shall pay all charges, & bee fined by the discretion of the Court; and they shall pceede in this order: Newberry & Rowley, Rowley & Ipswich,

Ipswich & Salem, &c; Hingham & Waymoth, Waymoth & Mount Woollaston, &c; and all townes are enjoyned to have this order performed before the next Generall Court, vpon paine of 5^s for every towne making default. And it is not intended that any person shalbe charged wth the repairing of the high wayes in his owne land." — *Ibid.*, p. 280.

Under the foregoing ordinance the main highway from Rowley through Ipswich to the northern end of the ferry between Salem and what is now Beverly was laid out by committees who made the following return:—

[At a court begun and held Oct. 7, 1640.] "Wee, whose names are hearunder written, being appointed to lay out the roade wayes for the countrey, in behalfe of Ipswich, (acording to order of Court,) from Rowley to Ipswich, (wth the consent of those that were likewise ordered for Roweley,) have thus marked the said wayes out, that is to say, from Mr Nelsons dwelling house pale by the end of Musses Hill to the newe bridge over the North Ryver, & so to the newe bridge over Muddy Ryver, & so by the comon fence to Ipswich towne, & so along by Mr Saltonstalls house over the falls at Mile Ryver, & by marked trees over Mr Appletons meadowe, called Parlye Meadowe, & from thence by Mr Hubberds farme house, & so on upon the east side of Mr Snyths house, & from thence, by like consent of Salem men, over the onld planters meadowe, & so to the two ponds usually dry in suimer, neare w^{ch} ponds the way doth branch, one whearof is easterly of the said ponds, leading through the onld planters ffield to Salem ferry according to the marked trees, & the other way is westerly of the ponds, leading to a great creeke at a landing place westerly of Mr Scrugs house./

The breadth of w^{ch} wayes, from Rowley to the two ponds above mentioned, (by the consent of us & those of Roweley & Salem,) is eight rod. And from the place where the two wayes begin to branch, both to the ferry & to the creeke, are either of them sixe rodd./

SAMUEL SYMONDS,
JOHN TUTTLE,
THOMAS FERMAN.

WILLIAM HAWTHORNE,
wth the consent of
Leift Davenport & Ensigne Reade.
THOMAS NELSON,
wth the consent of
Thom: Barker." — *Ibid.*, p. 308.

This return or "certificate" was ordered to be recorded as the first day of May, 1640, at a general court begun and held the seventh of October that year.

Within a few years after the location, incumbrances upon public highways had increased to such an extent that an ordinance was passed authorizing the Court of Assistants or any County Court, upon complaint made of such incumbrance, to appoint a committee to view the same and "ord^r y^e reformation thereof; & if y^e pties whom it shall concerne shall not submit to such order," they were to be summoned to appear "at y^e next Co^rte, where y^e cause shalbe heard & determined for y^e ease & conveniency of travelers, wth due respect to y^e ppriet^rs cost & damage."*

The burden of making, repairing, and maintaining bridges and highways within the limits of townships was placed upon the respective towns by the ordinance of 1648.†

Nearly five years before the passage of this ordinance the town of Salem had ordered to be recorded the report of Roger Conant and John Balch, a committee previously appointed by the town to call on others to mend the highway between Ipswich, Wenham, and the head of Bass River, which included one branch of the old highway of 1640.‡

Under the provincial statutes§ for repair of highways the most important change in this highway leading to the ferry in Beverly was made by a committee appointed by the Court of Sessions, upon a petition of the selectmen of Beverly. This committee's report was accepted and ordered to be recorded in December, 1698.||

The next public movement affecting the old highway of 1640 is indicated by the following entry in the records of the Court of Sessions:—

"Whereas there is great complaint by several persons of y^e ineroachments on y^e Kings highway between Rowley and Salem ferry in a high degree & it having been recommended by y^e judges of y^e Superior Court to some of ye justices of this Court to inspect & rectify the same & their being a record of y^e province or Gen^l Court whereby it plainly appears y^t y^e said complaint is true- Wherefore this Court do order & appoint Maj^r Symonds Epes, Capt. Thomas West, Deacon William Fiske, Capt-Joseph Bointon and Mr Jona Wade a committee to enquire into the said enroachments & who it is y^t hath meroached & to what degree & make report to y^e next Sessions of y^e peace to be holden at Salem in June next and the said Maj^r Symonds Epes is to appoint time & place for meeting for y^e attending said service." — *Essex County Court of Sessions, 1701-2, March term*, p. 99.

The complaint and the recommendation of the justices of the Superior Court of Judicature above mentioned have been searched for in vain; neither do the records of the Court of Sessions for the June term 1702, nor for July, to which time the court was adjourned, nor for any subsequent term, show that the committee appointed as above made any report, or took any action whatever. The next proceeding which has been found of record is the order which constitutes this chapter.

"The complaint of the justices of Essex" and "the annexed survey" of the road referred to in the preamble have not been found in the archives nor among the miscellaneous files in the Secretary's office. Among the latter, however, the following curious detailed report was discovered, signed by all but two of the committee appointed by this chapter:—

"We whose names are vnder written being apointed a Committe by the Great & Generall Court or assembly begun & held at Boston upon wensday may the twenty Sixth

* May 26, 1647. Mass. Colony Records, vol. II., p. 192.

† October 27. *Ibid.*, vol. III., p. 144.

‡ Salem Town Records, vol. I., p. 125.

§ 1693-4, chapter 6.

|| Records of Essex County Court of Sessions for that year, p. 52.

1703 to Sit at Ipswich Sometime in September next to heare the Complaints and take the answers of the Generall persons that haue trasgreded on the High-Road from Newbery to Salem contrary to the Ancient Records. And haueing giuen publique notice for ther meeting of us at the house of m^r ffrances Cromptons in Ipswich on the Seauenth day of September 1703 at ten of the Clock in the forenoone & being their meet doe make Our Report as followeth. viz.

- pole. Fot
 1. 14 — { Sam^l Stone: Answers that y^e high way is as it was when he bought it on
 1. 5. — { Each side
 1. 1. — { Benja^s Trask. } Answer that y^e fence stands now as it did when they came
 & Jⁿe Standly. } upon it
 1. 13. * Rob^t Brisco: Answers y^t the fence stands as he bought it & as it has stood
 for 40. yeares
 1. 13. { — W^m Eliot. his Answer is that ye bounds are as he bought y^m but ther was
 1. 11 { no fence
 1. 13. — Jⁿo Corning his answer is y^t his fence & house Stands further in then formerly.
 1. 12 — Nath^a Howard his answer y^t his house & fence Stands further in yⁿ formerly
 & was So Enjoy'd more yⁿ 40 yeares.
 2. 4 — Jacob Griggs & Haz^d Smith Answer that y^e high way is as wide as it was when
 they. bought y^e land & it was then fenced as now it is.
 2. 4 — W^m Trask. answer y^t his fence Stands within ye bounds he had † of his fathers
 lands.
 2. 1 — Tho. Chub Answer y^t he has not streightened ye way. but ye Road is as wide as
 in his fath^rs time
 2. 8 — Rob^t Roundy & haz^d: Smith say. y^t. the high way ther is as they bought y^r
 land. wth a stone wall on each side
 2. 8 — Jos Trask. ans^rs y^t he has not altred ye Road of w^t it was when he bought the
 Land:
 2. 10 — And^r Eliot ans^rs y^t he has not ineroached on y^e high way but y^e fence is as he
 bought it
 2. 10. — Nath^a Wallis Caleb. Wallis answers for him y^t. he has not trespass His fence is
 as he bought it
 2. 9 — Js. Woodbery ans^rs. y^t his house ther Stands as he bought it
 1. 7: — Benja^s Trask. ans^rs. that. y^e high way ther is wider yⁿ wⁿ ther fath^r inproud
 1. 14. — { Jon^t Bishop. ans^rs y^t y^e high way is as it was when he bought it
 And^r Eliot ans^rs. y^t he is not a transgresor as he knows of.
 2. 8. — { W^m Eliot ans^r y^t y^e fence now stands. as it did when he had it of his father
 Roger Haskoll. ans^r y^t he holds it as it was set out to him by his gaurdians
 Joseph † Herick: ans^rs. y^t y^e fence is as it was wⁿ he recened it of his fath^r &
 has ben so @ 50 yeares.
 3 — Benja^s. Balch. ans^rs that his fence has stood in y^e Same place for more yⁿ 60
 yeares.
 2. — Lot Conant ans^rs. y^t his house & fence is as his Granfather left it
 ph. white ans^rs y^t his fence stands. as it did when he bought it
 2. 10 — { W^m Conant. ans^rs. y^t his fence stands as. his father left it to him
 widow Raym^t for whome Cap^t Raym^t ans^rs. y^t y^e fence stands. as it did &
 has done for @ 50 yeares.
 2. 8. — Geo. Trow: ans^r y^t his fence stands acord^r to ye bounds he bought.
 2. 9. — Benja^s Balch sen^r & widow Rayment Balch ans^rs y^t y^e fence is as it has ben 60
 yeares.
 2. 7 — { Cap^t W^m Raym^t aswer y^t he beluies y^t y^e high ways has ben ther nere 60 yeares.
 y^t y^e land on both sides is his y^t y^e fence on west side has stod 50 yeares &
 more & one ye East Side 60 yeares & more as it now stands & y^t Edw Ray-
 ments land is part of it
 2. 7. — Cap^t W^m Dodge Ans^rs. y^t he is willing to retreate to w^t is meet
 3. 1. — Cap^t W^m Dodge. answer. y^t he has not transgrest upon y^t line & y^t y^t lot was
 laid out 40 yeres before others
 2. 5. — Jos^r: Balch. answer. y^t y^e fence now stands as it was first set. @ 25 yeres since
 Jon^t Herick. answer. y^t he has set his fence within ye bounds his land was
 sould by: bounded upon ye Country road by bounds.
 2: — Petter woodbery Jun^r answer. y^t when he fenced in his land he left it three
 pole & y^e reason is was so narrow wⁿ measured was a tobacco yard, now
 remoued.
 2. 9 — { Petter woodbery ans^r y^t he has not. exceded his bounds there.
 Sam^l Balch. ans^r that his fence runs as his land was bounded out by y^e pro-
 prietors of y^e land.
 2: 7: — Jⁿo Balch. ans^rs. y^t his fence runs as his land was bounded out to him wⁿ he
 bought it & was giuen to him by his father
- Rod fot
 3. 2: — Jonn^t Rayment Answer is that. his fence stands within his proper bounds:
 2. 7 — ffree Balch: answer: that his fence is within the bounds of his land
 3: — Widow Dodge. answer. that. her fence is within the bounds of her land
 2. — Jⁿy porter answer. y^t he neuer hard of any publique Road there. & y^t Road
 was lay downe for his predecessors owne connenieney —
 1. 10: — Isacc. Hull his wife. ans^rs. y^t y^e Road is where it was wⁿ her husband pur-
 chased & y^t y^e fence stands. as it did then —
 2. 3 — Tobias Trow ans^r y^t he bought his land by bounds & his fence doth not exceed
 it

* A name, apparently "Jon^s Lovet," cancelled here.

† The word "bought," cancelled here.

‡ Apparently written over "Sam^l."

3. 1. { Jos. fowler an^r y^t his fence stands within his proper bounds.
Zack Goldsmith
2:11 — Rob^t Simonds an^rs y^t his fence stands within the bounds he purchased
3:12 — Charles Gott. an^r y^t* he was bounded upon y^e Road & if he has trangred it must be mended
3. --- { W^m Rogers an^r y^t his fence stand on his bounds as he bought it
Sam^l Kimball not apering wat^r fairfield afirmes y^t his fence stands @ a Rod into y^e highway
2. 7-- Rich^d Hutten. an^rs y^t he has no land but w^t he bought. & if he has transgressed it must be rectified: —
2. 1 — { Jⁿo Gilbert not apered fairfield saith. y^t Jⁿo Browne ineroched before he sould: walter fairfield An^r he has knowne y^t to be a Road 60 yeares. & that he has not ineroched on Inch, & y^t Cap^t Smith allowed 4 pole for a Road. throw his farne till he came to fairfields land. & y^e selectmen accepted it
2:12:— Jⁿo Lampson. an^r y^t ye house be bought & p^d for.
1. ii — Dan^l Killum sen^r answer y^t ye land in his posession is his owne & has made no Inerochmt
2. 1 — Jⁿo Lampson an^rs. that he has not ineroched upon y^e highway.
1. 1 — Rich^d Hutten. he hops he has not transgressd if he has it must be rectified
1. 15 — An^t Dike: an^r y^t y^e land he has fronting upon y^e Road he bought of hutten
2. — Jⁿo Davison. y^t he has not Ineroachd on y^e Road has what his father gaue him
2. 7-- { Nath. Anible tenant to m^rs ward: knows nothing of any Ineroachment.
Potters Math. Whiple an^rs y^t since he has ben concernd in y^t Estate ther has ben no Ineroachmt
2. 7 — Rich^d walker. answer y^t he posseses his land by ye bounds set him wⁿ bought it
2:12-- Nath^s Dike an^r y^t he bought his land without any fence & set up his fence paralell to his neighbours
2:12 — M^rs Ward: her son Huberd. an^rs. y^t he knows of no Inerochmt & his fence stands. as it formerly did.
2:12.. Widow Whiple. Math Whiple administ^r an^r he knows of no Inerochments.
2. 3. John. Deane an^r is that he has not transgres upon y^e high Road.
2. 1. — Mathew Whiple. An^r y^e land is his on both sides: & y^t y^e fence stands now as it was when he bought it —
2. 1 — John. Whiple an^rs he knows no Road layd out there
2. 1/2 — Cip^r Whiple: an^r he has not Ineroched ye high way the fences are as his father left it
2 — Jos. Whiple answer he has not Ineroched but holds it as he had it from. his predesessors:
2. — Isace Rindge an^r he knows of no Country Road layd out there.
2. 2 — Cap^t Dan^l Ring an^r that he knows of no Ineroachment upon this Road
2:2. Ensigne Jacobs. he knows of no Ineroachment upon this road.
2. 9 ffrances Crompton. an^r he has not trespass on ye highway —
1. 1/2 Sam^l Apleton Esq^r
1:14: Jⁿo Apleton. Jun^r
1:14: Isace Apleton an^r y^t he has remoned his fence
3:15 — Tho. Maning. answer he has nothing but what he bought & has not Ineroched: Mr Wade an^r ye fence now stands as his predesesor Injoyd it
3. — Dan^l Rogers an^r he knows of no ineroachmt it has ben so 50 yeares
3. — ffr. Crompton. an^r he has not Ineroch^t has only w^t he bought Is: ffellows.
3:1/2 Rob^t Lord an^r his land has ben posed by him selfe & predesesor as now fenced for 50 yeares.
3. 1/2.. Tho Lull an^r. his land has ben possessed by himselfe & predesesor as now fenced for 40 yeares.
3 — Jⁿo Setchell An^rs he has no ways Ineroched on ye high ways
7. — ffranes Wainright Esq^r
3:14 Jer Jewet an^r y^t he has not Ineroachd ye Road.
3:14 Jⁿo Jewet an^r y^t he has made no Inerochmt on the high way.
4 — { Jer. Jewet Jun^r † has no land on ye Road its his fathers.
Jⁿo west. an^r y^t he has made no Inerochmt on y^e high. Road.
2. 9 — Widow pickard. her son an^r y^t his fath^r & mother peacably posed ye lands for 50 or 60 yeares. as its now fenced
2. 9 John. & Sam^l Dresser John An^r. that they haue posed it for neare 50 yeres as it is now fenced:
7 — Ensigne Stickny
The foregoing is the Answer made by the Senerall persons. herin named unto us at Ipswich: 7th Sept^r 1703.
ROBERT HALE
SYMONDS EPES
JOSEPH BOYNTON
WM BROWNE
JOHN APPLETON
JOHN HIGGINSON
FRANCIS WAINWRIGHT." — *Mass.*

Files: Miscellaneous.

No action appears to have been taken upon this report at the September session, nor has the acceptance of the report subsequently been discovered nor any legislative remedy of the encroachments which the committee reported further than the following unsuccessful proposal, which originated in the Council during the fourth session of 1704-5:—

"Jan. 4, 1704-5. An Order pass'd in Council for Revival of the Committee formerly appointed by this Court to enquire into the Encroachments made on the High Way lead-

* "His fence stands," cancelled after this word.

† "& Jⁿo west," cancelled after this word.

ing from Salem to Newbury, Impowering them to stake out the same to the Breadth of four Rod in all Places where it is streighten'd, & to command the Removal of all Encroachments and Report their Doings; — Wch Order being sent to the Represent.^{ves} Was disagreed to by that House." — *Council Records*, vol. VIII., p. 101.

Chap. 22. This chapter is from council records, vol. VII., p. 410. It has not been found in the archives.

Of the ten thousand pounds in bills of public credit required to be printed and signed by the act * of November 21, 1702, one-half had been emitted in accordance with the order in the third section of that act, while the other five thousand remained unsigned in the hands of the committee until after the passage of chapter 14 of the resolves of the year 1702-3, which required the committee to sign and deliver them to the province treasurer — "the said bills to pass out of and into the treasury," etc., as had the "five thousand pounds already emitted."

The last-named resolve was passed March 27, 1703, the last day of the session; and on the thirty-first of May following, being the fifth day of the next General Court, "an account of the bills of credit remaining in the hands of the committee" was read in the Council and sent down to the representatives. Towards the end of the same session the resolve which constitutes the present chapter was passed for placing in the treasury for emission a further sum of five thousand pounds in bills of credit.

Chap. 23. This chapter is from council records, vol. VII., p. 410. It has not been found in the archives.

The emission of the first five thousand pounds in the bills of credit prepared under the act of 1702 was authorized by the act itself, as has been shown in the preceding note. By chapter 14 of the resolves of the year 1702-3, the province treasurer was impliedly, though not expressly, authorized to emit the remaining five thousand pounds of that issue. The object of the resolve which constitutes the present chapter seems to have been to direct and empower the treasurer to emit the bills printed under the last preceding resolve, and to enhance their value by redeeming them at a premium of five per cent.

The tax act † which was passed ten days later contained a section expressly empowering the treasurer to emit these bills and also to re-issue five thousand pounds of the whole ten thousand pounds of bills which had been prepared in bills previously emitted and returned to the treasury, and to receive them back again at the same advance or premium of five per cent.

Chap. 26. This chapter is from archives, vol. 59, p. 244. It is recorded in council records, vol. VII., p. 413.

No such complaint as is mentioned in the preamble to this chapter has been found in the archives.

This order originated in the Council on the twentieth of July, when it was passed and sent to the House for concurrence, and on the next day was concurred in and consented to by the Governor.

In 1709, on the joint complaint of the inhabitants of Enfield and the justices of Hampshire against the people of Windsor for forcibly seizing and carrying away turpentine drawn in Enfield lands, the Governor and Council referred the letters received on the subject to the consideration of the Assembly.

Chap. 27. This chapter is from council records, vol. VII., p. 414, and archives, vol. 62, p. 438.

The following is the petition mentioned in the preamble to this chapter: —

"To his Excellency Joseph Dudley Esq^r Capt General and Governor in cheif in and over her Maj^{ties} Province of the Massachusetts Bay in New England and vice Admiral of the same. The Hon^{ble} her Maj^{ties} Council of the s^d Province and to the Hon^{ble} House of Representatives convened in General Assembly for the said Province —

The humble Petition of John Harraden Mariner late Command^r and owner of the Sloop Blackthorne

Sheweth

That on the tenth day of May Anno Domⁱ 1702. before the War was proclaimed yor^e Petitioner being bound with his s^d Sloop on a fishing voyage to Cape-Sables was met with by Jean Baptiste who took yor^e Petitioner, and sent him and his Company into Port Royal, and in about two months time yor^e Petitioner being discharged and his Company brought home with him two Ketches which the french had taken from us, and delivered them to the owners at Salem, and presently waited upon his Excell^{cy} and gave him an acco^t of what had happened, who was pleased to grant yor^e Petitioner his Commission to go in search after recover & retake his s^d Sloop &c^y And the said Baptiste being notoriously known to have been a most mischievous enemy to this Country last warr, having taken a great number of vessells from the Merch^{ts} of this Province Several Merch^{ts} and Gentlemen of good worth promis'd yor^e Petitioner, he should be very well rewarded if he could take s^d Baptiste. But now so it is may it please yor^e Excell^{cy} and Honor That yor^e Petitioner did pursuant to his s^d Commission find out & take s^d Baptiste and bring him Prisoner to Boston, but in our way home met with a french man of War of seventy five men who were fitted out from Port Royal on purpose to take yor^e Petitioner (as the Capt himself boasted when we hailed him). but we killed the Captain and 13 or 14 of his men (as the french themselves reported) and sent her back to Port Royal, Monsieur Baptiste having had the satisfaccoⁿ to be a spectator of the action whereby (as he humbly conceives he did a very considerable service for his Country, the Satisfaccoⁿ whereof he looks

* Province Laws, 1702, chapter 8.

† *Ibid.*, 1703-4, chapter 3, § 5.

upon to be a sufficient Reward for all the Pains and hazard he has sustained in the enterprise. But his particular personal Loss has been very great for besides that the Sloop furniture &c: cost him near four hundred pounds which is all lost. he is moreover by the Loss of his Sloop put out of all employment, & all means to support himself and family taken away from him whereby he is reduced to great straits.

Yor: Petitioner therefore humbly Prays and hopes that yor Excellency and Honor will be pleased to take the Premises into yor Pious & serious Consideration. and will be pleased so far to Consider the Cause of yor Petitioner, and give him such Relief & Recompence, as to yor Excellency and Honor: in yor great Wisdom and goodness shall seem meet.

And yor Petitioner as in duty bound shall ever pray &c/
JOHN HARRADEN." — *Mass.*

Archives, vol. 62, p. 438.

This petition was read first in the House on the twenty-eighth of May, 1703, but the resolve was not passed until the twenty-first of July, on which day it was also agreed to by the Council and consented to by the Governor. The Jean Baptiste recaptured by Harraden was the prisoner whose exchange was so earnestly sought for by the French in Canada. He escaped from prison in December, 1697.** He was not liberated until some years later. There appears to have been still another prisoner of the same surname taken from the enemy and imprisoned in Boston. See the list of prisoners exhibited by John Arnold, prison keeper, 1690, in which the name of "Battist" appears — *Province Laws*, vol. VII., p. 628.

The order in Council* for the payment of this allowance was passed August 5, 1703, and the province treasurer's account† shows that it was duly paid.

Chap. 30. This chapter is from council records, vol. VII., p. 415. It is preserved in archives, vol. 88, p. 341.

The act‡ of 1693 for encouraging a post-office having been disallowed by the Privy Council on the fifth of November, 1696, a little less than five months after the passage of the act§ for reviving and continuing it, the newly reconstructed Board of Trade communicated the order for the disallowance to Lieutenant-Governor Stoughton in a letter dated Whitehall, January 20, 1696-7. Besides giving the reasons for rejecting the first mentioned act which have been printed in the notes thereto, the writers promised to send over the draught of a new act acceptable to the home government|| to be passed by the provincial Legislature.

The preparation of the proposed act appears to have been postponed until after the appointment of Bellomont.¶ The draught was completed by the twenty-sixth of August, 1697, on which day it was sent to Bellomont from the Lords of Trade with a letter of explanation and directions, in which it was referred to as mentioned in his instructions. The final draught of these instructions, however, was not prepared until five days later. Of these the thirty-eighth reads as follows:—

"And whereas his Majesty hath lately repealed an Act passed in the Generall Assembly of his Province of the Massachusetts Bay, entituled, *An Act for encouraging a Post Office*, That Act being found prejudicial to the office of his Majesty's Post Master Generall in England, in whose Patent are included all his Majesty's Dominions and inconsistent with the patent granted in the year 1691 to Tho. Neale Esq. for the Post Office in America, But is willing nevertheless that such an Act be passed there as may answer the principal ends of the former without the forementioned inconveniencies; You are therefore to endeavour that such a Law for erecting & establishing a Post Office: (a copy whereof is herewith delivered to you) be passed within the said Province of the Massachusetts Bay and to transmit it unto His Majesty when past by the first opportunity." — "*New England, Board of Trade*," vol. 30, pp. 260-272; in *Public Record Office*.

The circumstances which delayed the arrival of Bellomont to assume the gubernatorial chair of Massachusetts have been narrated in the note to chapter 62 of the resolves of 1697. Before he arrived in Boston notice of the disallowance (by an order of the Privy Council passed November 24, 1698) of the provincial act for reviving and continuing the former act had been communicated to the Lieutenant-Governor. This was published on the twenty-seventh of April.††

Agreeably to his instructions, at the first session in which he met the Assembly Bellomont laid before the Council‡‡ the draught of the act prepared by the Privy Council. Both of the provincial acts, however, had already become inoperative upon receipt of the order in Council disallowing the original act.

The last legislative grant towards the support of a post-office had been by the resolve §§ of June 11, 1696.

There can be no doubt of the sincere desire of the provincial Assembly to afford facilities and encouragement to those who had been appointed to manage this monopoly, provided the concession should not be improved to so extend the royal prerogative as to impair or defeat rights and privileges granted or reserved in their charter. But in the Legislature there was a constant and not unfounded jealousy of this constitutional but undefined function of sovereignty. It was feared the extravagant ideas of the right of dominion by the crown constantly and offensively advanced by those, who, in deference to this supposed legal attribute of the sovereign, opposed any diminution of regal power and by those who sought the favor of royalty by reckless subserviency would, unless

* Executive Records of the Council, vol. 3, p. 465.

† *Mass. Archives*, vol. 122, p. 202.

‡ Chapter 3.

§ 1696, chapter 1, § 4.

|| *Province Laws*, vol. I., pp. 117, 123.

¶ Bellomont's commission is dated June 18, 1697.

** See note to chapter 51 of the resolves of 1705-6.

†† *Sewall's Diary*, vol. I., p. 496.

‡‡ June 3, 1699.

§§ *Resolves*, 1696-7, chapter 13.

prudently and seasonably controlled, supplant the liberties of the subject. It was this jealousy and a strict observance of the rule *obsta principiis* that constrained the popular leaders to insist upon some objections which under other circumstances might appear frivolous, or at least uncalled for.

The first action taken by the Council upon the draught of the act submitted by the Governor was to order that it be transcribed by the Secretary and "brought in on Tuesday morning next and then read." Accordingly, on Tuesday, June 6, 1699, the transcript having been prepared, it was brought in and read and ordered to be read a second time the next morning.

The following is printed from the copy made by the Secretary : —

"Province of the

Massachusetts Bay An Act For erecting and establishing a Post Office.

Whereas his Ma^y and her late Ma^y Queen Mary by their Royal Letters patents under the Great seal of England, bearing date the 17th day of February which was in the year of our Lord God 1691 — did grant to Thomas Neale Esq^r; his Exce^s Admin^r & assigns full power and authority to erect, settle & establish within Their s^d Ma^ys Colonies & plantations in America, one or more Office or Offices for y^e receiving and dispatching of Letters and Pacquets by posts and to receive, send and deliver the same under such rates and sums of money as the Planters and others should agree to give on the first settle^{mt}! To have, hold and enjoy the same for the Term of one & twenty years with and under such powers, limitations and conditions as in and by the s^d Letters patents may more fully appear. And whereas his Ma^ys Post master General of England at the request, desire and nomination of the s^d Thomas Neale hath deputed Andrew Hamilton Esq^r; for such time & under such conditions as in his deputation for that purpose is mentioned, to govern and manage the s^d General Post Office for and throughout all his Ma^ys Plantations and Colonies in the Maine Land or Continent of America and the Islands adjacent thereto, as in and by the s^d Deputation may more fully appear. And whereas the s^d Andrew Hamilton on the behalfe of the said Thomas Neale by and with the good liking and approbation of his Ma^ys Post master General of England, hath made application to his Exce^s the Governour, Council and Representatives convened in General Assembly that they would ascertain and establish such rates & sums of money Upon Letters and Pacquets going by Posts as may be an effectual encouragement for carrying on and maintaining a general post. And his Exce^s and Council and Representatives convened in General Assembly considering that the maintaining of mutual and speedy Correspondencies is very beneficial to his Ma^y and his subjects and a great encouragement to Trade, and that the same is best carried on and managed by publick Posts as well for preventing inconveniencies which heretofore have hapned for want thereof, as for a certain safe speedy dispatch carrying and recarrying of all Letters and Pacquets of Letters by Posts to and from all parts and places within the Continent of America, and several parts of Europe and that the well ordering thereof is a matter of general concernment and of great advantage

Be it therefore Enacted, by his Exce^s the Governour, Council and Representatives convened in General Assembly, And by the authority of the same That there be from henceforward one General Letter Office erected and established in some convenient place within the Town of Boston from whence all Letters & Pacquets whatsoever may be with speed & expedition sent into any part of the neighbouring Colonies and Plantations on the maine Land and Continent of America, or unto any other of his Ma^ys Kingdoms and Dominions or unto any Kingdom or Countrey beyond the seas, at which s^d Office all returns & answers may likewise be received, and that one master of the s^d General Letter Office shall from time to time be appointed by his Ma^ys Post master General of England for the time being to be constituted by Warrant under his hand and the seal of his office for such time as such Post master General shall think fit, which s^d master of the s^d office and his Deputy and Deputies by him thereunto sufficiently authorized and his and their servants & Agents and no other person or persons whatsoever shall From time to time have the receiving taking up ordering, dispatching, sending post or with speed and delivering of all Letters and Pacquets whatsoever which shall from time to time be sent to and from all and every the ports, places, Colonies and Plantations on the maine Land and Continent of America or any other his Ma^ys Kingdoms and Dominions, and to and from all and every the Kingdoms and Countreys beyond the seas where he the s^d post master General shall settle or cause to be settled posts or running messengers for that purpose — Except such Letters of merchants & masters, owners of any ship or Vessel or any part thereof, or any part of the Cargo thereof which shall by any such merchant or master be sent by any masters of any ships, Boat, or other Vessels of merchandize, of which they shall be so owners or part owners of ship or Cargo or by any other persons employed by them for the carriage of such Letters afores^d according to the respective directions and also Except Letters to be sent by any private Friend or Friends in their way of Journy or Travel or by any messenger or messengers sent on purpose for or concerning the private affair of any person or persons.

And be it further Enacted by the authority afores^d That such master for the time being as shall from time to time be made & constituted by the Post master General of England for the time being, and the respective Deputys or substitutes of such master and no other person or persons whatsoever shall prepare and provide horses and furniture to lett to hire unto all through posts and persons riding in post by Comission or without to and from all & every The parts and places afores^d where any post roads are or shall be settled and established.

And be it further Enacted by the authority afores^d That it shall and may be lawful to & for the s^d master of the s^d Office to be constituted as afores^d and his Deputy and Deputys by him thereunto sufficiently authorized to demand, have receive and take for the postage & conveyance of all such Letters which he shall so convey, carry and send post as afores^d and for the providing & furnishing horses for through posts or persons riding in post as afores^d according to the several rates and sums of currant money of this Province hereafter mentioned, not to exceed the same — That is to say, For the post of every single

Letter from Enrope, the West Indies or other parts beyond the seas two pence, and all Letters are to be accounted single tho they containe merch^{ts} accompts not exceeding one sheet of paper, Bills of Loading, Gazets, Invoices or Bills of Exchange, and for each packet of Letters from the places afores^d four pence, and a Packet shall be accounted three Letters at the least; and for the post of every single Letter from Rhode Island to Boston or from Boston to Rhode Island six pence & so in proportion to the greatness and quantity of Letters; and for the post of each single Letter from the Post road in Connecticut Colony to Boston nine pence, and so in proportion as afores^d, and for the post of each single Letter from the City of New Yorke twelve pence and so in proportion as afores^d and for the post of each single Letter from the Province of East and West Jersey or Pensylvania fifteen pence, and so in proportion as afores^d and for the post of each single Letter From Maryland or Virginia two shillings each Letter and so in proportion as afores^d And for the post of each single Letter from Salem pence, from Ipswich, Newbury or other places Eastward of Salem within this Province pence and from Piscataqua pence, and so in proportion as afores^d And if any Letters or Packets shall lye or remain in the office uncalled for by the space of Forty eight hours the Post master ^{AA} then sending them forth to the respective houses of the persons to whom they are directed shall have & receive one penny more for each packet or Letter.

And be it further Enacted by the authority afores^d That it shall and may be lawful to and for such master to be constituted as afores^d and his Deputy and Deputys to aske, demand take and receive of every person that he or they shall furnish and provide with horses, furniture and guide to ride post in any of the post roads afores^d six pence for each horse hire or postage for every mile and one shilling for the Guide for every Stage.

And for the more effectual encouragement of the s^d General Post Office Be it further Enacted by the authority afores^d That all and every such person and persons as shall be employed by such master to be appointed as afores^d in the several stages within this Province shall and may pass & repass all and every Ferry and Ferrys within this Province at any time during the continuance of this act in force without paying any rate or sum of money either for his or their own or his or their horses passage or passages.

And be it further Enacted by the authority afores^d That no person or persons whatsoever or Bodies politique or Corporate other than the s^d master to be constituted as afores^d shall presume to carry Recarry or deliver Letters for hire (other than as before excepted) or set up or employ any Foot post, horse post, Packet boat or conveyance whatsoever for carrying, conveying or recarrying of any Letters or Packets by sea or Land within this Province, or shall provide or maintaine horses & furniture for equipping of any persons riding post as is usual in his Ma^{ty}s Realme of England, upon the pain of forfeiting the sum of Forty pounds current money of this Province for every several Offence against the tenour of this present act, to be sued for and recovered in any Court of Record within this Province by Bill Plaint or Information, wherein no Essoign Protection or wager of Law shall be allowed, one halfe of the s^d Forfeiture to his Ma^{ty}s his heires and successors towards the support of the Governm^t of this Province and the contingent Charges thereof and the other halfe to the s^d master to be constituted as afores^d who shall sue & prosecute for the same

And whereas upon the arrival of ships into the several parts of this Province many Letters directed to several merchants and others have been detained long to the great damage of the merch^{ts} in want of that speedy advice which they might have had if the same had been forthwith dispatched and some time such Letters have been delivered by the masters or passengers of such ships to ignorant or loose hands that understand not the way & means of speedy conveyance and delivery of Letters whereby great prejudice hath accrued to the affairs of merchants and others as well by y^e miscarriage of many Letters as oftentimes by opening the same, to the discovery of the Correspondencies & secrets of merch^{ts}

Be it therefore Enacted by the authority afores^d That all Letters and Packets that by any Master of any ship or Vessel or any of his Company or any passenger therein, shall or may be brought to any Post Town in the Province afores^d (other than such Letters as are before excepted) shall by such master, passenger or other person be forthwith delivered to the Deputy or Deputys of such master only for the time being or to his servants or agents, by him or them to be delivered according to the several and respective directions of the same or in default thereof every such master, passenger or other person as afores^d offending in the premises shall forfeit the sum of ^{to be recovered} & p^d to such persons and in such manner and to such uses as afores^d and for their respective encouragement in the observance hereof Be it also Enacted That the s^d master of the s^d Office his Deputy or Agents shall pay to every master or masters of any such ship or ships, Vessel or Vessels so delivering in Letters as afores^d a halfe penny for every Letter or Letters, packet or packets.

And it is hereby further Enacted by the authority afores^d That the s^d master of the s^d Office, his Deputy or servants shall continue constant posts for the carriage of Letters to the several places and stages abovementioned, and shall seasonably and faithfully deliver forth the Letters and also furnish and provide all persons riding post wth sufficient horse or horses for his or their use within the space of one halfe hour after demand according to the intent of this Act upon pain of forfeiting for every omission in either of the s^d Cases y^e sum of Five pounds to be recovered as afores^d and to be disposed the one halfe to his Ma^{ty}s as afores^d & the other halfe to the party aggrieved, who shall sue for y^e same.

Provided always That if any Vessel or Vessels used or to be used in the s^d Service be Forreign built or navigated with Forreigners then and in every such case the s^d master shall forfeit the sum of ^{sterling to be recovered to such uses and in such manner as the penaltys last above mentioned are directed to be recovered and disposed of as aforesaid.}

Provided also and be it Enacted by y^e authority afores^d That no person or persons whatsoever shall be capable of having, using or exercising the office of master of the s^d Office or any other Employ^{mt} relating to the s^d Office unless he or they shall take the same Oath or Oaths that the assembly men of this Province are obliged by the Laws of

the same to take, before one or more Justice or Justices of the peace of the place in which such person or persons shall be resident, which s^d Justices are hereby impowred to administer the s^d Oaths accordingly.

And be it further Enacted by the authority afores^d That if any Ferry man or Ferrymen or other person or persons interested in any such Ferry or Ferrys within this his Ma^ys Province shall at any time neglect refuse or delay the conveying over his or their Ferry or Ferrys any such person or persons so employed as afores^d in the execution of their respective employ^{mt} or employ^{ts} or his or their horse or horses, he shall for every such offence forfeit the sum of Five pounds sterling to be recovered & disposed as the penalty before by this act laid upon such as shall set up any post or packet boat is hereby directed and appointed to be recovered and paid.

And to the end all Letters and Pacquets of Letters, other than as afores^d which shall or may be sent to England, Scotland, or Ireland or any other part of Europe may be safely conveyed & delivered according to their respective directions

Be it Enacted by the authority afores^d That The s^d master of the s^d Office shall from time to time and at all times hereafter put up all Letters and Pacquets of Letters to be sent to England, Scotland and Ireland or any part of Europe as afores^d in one maile or bagg carefully sealed up by him or his sufficient Deputy by him to be appointed for that purpose, and directed to the Post master General of England, and shall cause the s^d maile to be sealed up as afores^d to be carefully and with speed put on board some ship or Vessel bound for England, and by ye master of such ship or Vessel to be delivered at the first post Town in England such master shall arrive at, to the Deputy post master of such Town by him to be forwarded, and all masters of ships, Vessels and other persons are hereby prohibited making any Collection or receiving any Letters or Pacquets of Letters directed for England, Scotland or Ireland or any other parts of Europe as afores^d (otherwise than as afores^d) under the penalty or forfeiture for every such offence, of the sum of Forty pounds sterling to be sned for & recovered in such manner & paid to such persons as the penaltys herein before inflicted for collecting Letters and setting up private posts are directed to be sued for and paid.

And for the better managment of the said Post Office, and that the people of this Province may have their intercourse of Comerce & Trade the better maintained, and their Letters & advices conveyed, carried & recarried with the greatest speed, security and convenience that may be

Be it further Enacted That the s^d master so nominated, appointed and constituted as afores^d and his Deputies shall from time to time observe and follow such orders rules directiōns & Instrucciōns for and concerning the settlem^t of convenient Posts and stages upon the several roads in this Province and the providing and keeping a sufficient number of horses at the s^d several stages as well for the carrying and conveying of the s^d Letters & Pacquets as for the horseing of all through posts and persons riding in post by Warr^t or otherwise as afores^d as the Post master General of England for the time being shall from time to time in that behalfe make and ordaine

Provided alwayes and be it Enacted by the authority afores^d That no person or persons w^hsoever shall have power to take use or seize any horse or horses for the service mentioned in this act without the consent of the Owner or Owners thereof, or Warrant under the hand & seal of one Justice of the peace, and paying for the same at the rate of six pence for each horse, each mile any usage or pretence, or any thing in this act contained to the contrary thereof in any wise notwithstanding.

Provided also and be it Enacted by the authority afores^d That all Inland Letters sent by any Packet post established by this act as afores^d do and shall pay the rates & prices before mentioned at such stage where they are last delivered only, unless the party that delivereth the Letters desires to pay elsewhere any thing in this act to the contrary notwithstanding.

Provided also That the master of the General Letter Office to be appointed by virtue of this act shall from time to time observe & keep the several rules, orders and directiōns contained and specified in certain Letters Patents under the great seal of England bearing date the 17th day of February in the fourth year of the Reign of his present Ma^ys and the late Queen Mary of blessed memory, whereby Their said Ma^ys did grant unto Thomas Neale Esq^r full power and authority to erect and establish within the chief ports of his Ma^ys Plantations in America, an office or Offices for the receiving and dispatching of Letters for the term of one & twenty years, in all things Except only where this act hath otherwise directed —

Provided That this act or any thing therein contained shall not continue in force any longer than years from and after the publication thereof, any thing therein contained to the contrary thereof in any wise notwithstanding." — *Mass. Archives, vol. 88, p. 327.*

On the seventh this bill was read a second time and committed. The committee, consisting of Stoughton, Danforth, Winthrop, Cooke, Hathorne, Elisha Hutchinson, Russell, Sewall, Lothrop, Thomas, Byfield and Secretary Addington, — Stoughton being chairman, — were ordered to sit the same afternoon. On the eighth they were ordered to sit again.

No record of further action on this bill has been discovered; but the following memorandum in the handwriting of Sewall remains on file with the bill, and is undoubtedly Sewall's proposition for filling the blanks in the paragraph corresponding to the second section of the act of 1693, and for making obligatory on the postmaster the provision in the last clause of that paragraph for the delivery of the mail: —

" Post-Road in Connecticut	6 ^d
From Boston to Salem	2 ^d
To all places beyond Salem on this side of Merrimack River	3 ^d
On y ^e other side Merrimack River to Portsmouth }	4 ^d
or New-Castle	

A The Post-master shall then be obliged to send them forth unto the respective houses in Boston of the persons to whom they are directed, and shall have and receive one penny more for each packet or Letter so sent home

All about furnishing Horses to be left out." — *Ibid., p. 331.*

From 1699 until the present year no attempt at further legislation for encouragement of the post office appears to have been made, and with the exception of payments on account of freight, expressage, etc., for the public service* no payments were made to the postmaster from the province treasury. This year, however, Duncan Campbell having died,† John Campbell who succeeded him as postmaster presented to the Legislature the petition mentioned in the preamble to this chapter, which ran as follows:—

"To His Excellency Joseph Dudley Esqr Capt Generall and Govr In Cheife In and over her Majes Province, of the Massachussets [Bay?] In New-England &c And To The Honorable Her Majes Council, And the Representatives of the Same Conveened In Generall Assembly, And now sitting In Boston the 26th day of May Anno Domj: 1703.

The Humble Petition of John Campbell Post-Master of New-England &c Sheweth.

That Whereas The Post-Office, within This Province, euer since It's first settlement, hes been found and still continues to be of great use and service, and almost of absolut necessity To Her Majes Government, and the Com[un]ity of her Majes Subjects In this and the Neighbouring Colonys, And Whereas The Act of this province that first settled the Same, was but temporary, and expired In the year 1696, without euer having been since revived, Whereby The Post office, is now rendered verȳ precarious and uncertain, And Labours under so many discouragements, that unless Speedily and effectually supported, secured and Advanced, by An Act of this Great and Generall Court or Assembly, It must necessarily faile and come to nothing, To the Great Hurt and Injurie of her Majes Government [in?] this Country, And the great damage and Loss of Trade and Commerce in these parts, your Petitioner being utterlie discouraged, and Incapable of Continueing the Same, as It is now Circumstanced.

Your Petitioner Therfor most Humbly Pray's

That your Excellency, And this Great and Generall Assembly, Will be pleased to Take the premisses, Into your most mature, and wise consideration, As also the Memoriall which your Petitioner do's herewithall most Humbly offer: And for the future so secure and provide for the post office, As that it may attain the end, for which it was at first established,

And your Petitioner as in Duty bound shall euer pray, being allways

Your Excellencies And Honours.

Most Humble, obedient and faithful Servant.

Jⁿ^o. CAMPBELL." — *Ibid.*, p. 341.

The memorial which accompanied the petition and a memorandum presented by the petitioner the same session ran as follows:—

"The Memoriall of John Campbell master of the Post office of Boston and New England, Relating To the Post office, Humbly offered to the great and General Court or Assembly; of her majes Province, of the Massachussets Bay, in New England Now sitting, at Boston the 26th May 1703.

1. *Imprimis* That the Patent for the Post office, In the North part of the Contentient of America, granted by their excellent majes, King William and Queen Mary in the fourth year of their Reigne, unto Thomas Neal Esqr his exors admin^r and assignes, was for Twenty one years, from the 17th february 1691. to the 17th february 1712.

2. That there was an act past In the Generall Court at Boston for settling A post office by vertue of s^d Patent In Anno 1693. Granting Priviledges as s^d said Act appears, web was to be in force only Three Years viz: to anno 1696 since web time no act hes been revived for want wherof, a great many Irregularities are Committed, and said Office Like to Drop and come to nothing.

3. That Coll^o Hamilton the Post master General In this Countrey deputed Thereto by the Post master General of England &c According to a Clause in the Patent being ap-
pointed and nominated by Thom^s Neale Esqr to Erect & settle said post Office web accordingly he did, and is out of Purse severall years agoe above £1400 ster! In settling the same, and to this Day is not yet able by the Incomes thereof to Defray the necessary charge in maintaining the same.

4. That Coll^o Hamilton who was at the Charge in settling said office, could never be reimbursed by said Thom^s Neale Esqr and was necessitated to take a mortgage, of said Patent or else have nothing, so that the priviledge of said Patent now devolves upon Coll^o Hamilton and his heires exco^r &c

* Upon Campbell's petition the following orders were passed in Council for paying his account of charges and expenses in conveying of letters and expresses for his majesty's service out of the post road and on days in which the post does not go; viz., April 22, 1697, five pounds, — *Executive Records of the Council*, vol. 2, p. 461. (*Mass. Archives*, vol. 122, p. 82); February 9, 1698, £3 15s., — *Ibid.*, vol. 3, p. 2 (*Archives*, vol. 122, p. 150); May 9, 1700, £13 1s., including, besides, freight and storage of Bellomont's household goods from New York, — *Ibid.*, p. 115; July 30, 1703, £20 5s., — *Ibid.*, p. 460 (*Archives*, vol. 122, p. 200).

† Administration was granted on the estate of Duncan Campbell to his widow, Susanna, July 29, 1702. The consanguinity of Duncan and John has not been discovered, though their business relations and the fact that the latter was one of the commissioners upon the insolvent estate of the former are grounds for supposing that possibly they were connected by blood. On the other hand there were distinct differences in the arms engraved on their seals. Duncan Campbell is mentioned by John Dunton, in his "Life and Errors," London: 1705, p. 128, as having won the affections of "a young lady of a Great Fortune;" and in his "Letters from New England," published by the Prince Society, Boston, 1867, the same author refers to the marriage of this "brisk young fellow." This was in 1685. Mr. Whitmore, the accomplished editor of the latter publication, gives in a note (p. 80), the names of five children of Campbell by this wife, Susanna Porter, granddaughter of William Pitt of Marblehead. The first child was born May 27, 1687, and the last was born March 2, 1699-1700. There is nothing to show that Campbell was previously married. John Campbell postmaster and, for the first eighteen years, publisher of the Boston News-Letter, which he established, had by his wife, Mary, a daughter Sarah born in 1687, who became the wife of James Bowdoin and was buried December 24, 1713. (*Sewall's Diary*, vol. II., p. 413.) John Campbell died March 4, 1728-9, aged seventy-five years. Therefore the surmise that he was a son of Duncan is not probable, to say the least.

‡ Manuscript mutilated.

5 That There is now Ten years elapsed since the first settlement of the Post Office, and about a year and an half before the settlement, and about nyne and an half to run out of the terme of the Patent, and since Coll^o Hamilton is so much money out of pocket already, and the Incomes not yet sufficient to Defray the necessary charge in upholding it, It will be but a just thing to revive the former Act and to Continue it to his heirs &c During ye Terme of s^d Patent, wth an additional Amendment of said Act In severall Clauses and paragraphs thereof so much advantageous and Beneficial to the Publick &c dose at Least save the publick £150 ψ annuū: that otherwayes must be pay'd for expences If there were no post.

6. That every body Carrying of Letters, to & from Townes where post Offices are settled, is a very great hinderance and discouragment to said office; often thereby Letters from Conneticut Colony are Carried to Piscataqua, and put into the Office there some Weeks & months after written and sent, and at Last come from Piscataqua to Boston so that the Office is blamed for it, without a Cause, and on the Contrary Letters from Piscataqua come in the Western maile.*

7. That the Letters from Europe and West Indies and other places, that come in by sea, the one halfe is not brought to the office, those that do come pays but two pence one penny of w^{ch} goes to the master, and those employed to Receive them, and the other penny is lost in Dead Letters (remaining in the severall post offices) of such persons that are dead and gone, severall Letters ffor England and West Indies that wee send away gratis and severall Letters that persons will not take up & pay for.

8. That the ferry-men are very backward in carrying those employed in the Post Office, and do require money sometimes, yea often backward to Dispatch expresses when sent by the Govern^r, and do judge it proper all employed in the post office should be ferry free both man & horse.

9. That in regard the Post master Generall as said is,† Is incapacitated to give such sallarys to the severall post masters as is requisit, to Discharge that trust as should be, all persons concerned in said office, shall be free from watchings, trainings, or any other publick service and either freed from Rates, or excise free, or some other benefit equal to it.

10 That all masters of ships &c be oblidged under a penaltie to deliver their Letters at the post Office, and to Call for all Letters on board his Vessell from passingers and seamen, w^{ch} passingers and seamen shall Incurr the Like penaltie for not delivering them to the master and in case said master do not deliver them himselfe at the said Office, but sends them either by one of his servants, passingers, or any other Deputed by the post master to Receive them, then said master shall seal them up in a Bagge, alwayes wth an Alphabetically List fairlie drawn up, that no Letters may be Imbezelled as often they are, and in case the postmaster or Deputy's is necessitated to go on board for s^d Letters then the master to have but one halfe of his allowance, the other halfe for the post master and his Deputy or Deputy's.

11. For want of such an act a great many Letters are miscarried, and often Letters come into the Office from one and the same ship some Two Dayes after the first some three or four dayes, some Two three † Weeks, & some two or three months, w^{ch} I can prove to be true.

12. That wheras there was usuallie allowed from this Govern^r the first three years of the forcedaid Act, A sallary for encouragment of said Office, and nothing has been allowed since, It is requisit with submission that said sallary may be now granted for the time elapsed it has not been allowed and payed, and for the future Continued.

13. And That in the 6th Paragraph of the former Act, after the Port of Boston be added, and particular offices in other Towns of this Colony.

14. That something might be done, to Cause people to pay for their Letters when sent out.

15. That some Clause in the Act be made for further encouragment, That all Townes in this province under some penaltie where no post office is settled, be oblidged to Call for their Letters at the next post Towne within some limited time and pay the postmaster for them." — *Ibid.*, p. 337.

Memorandum

"Boston July 19th 1703

That The Present Charge To maintain The Post between piscataqua and philadelphia ffor postmasters, Ryders, and other Incidentall Charges ψ annuū amounts to about The Summe off. . . .

£680

off which Charge The postm^r of N Englands part will amount to ψ annuū about.

£453 . . 6 . . 8

N yorke and philadelphia

£226 . . 13 . . 4

£680

which £453 . . 6 . . 8⁴ is

£113: 6: 8 ψ Quarter

And is ψ month

£37: 15: 6

* The practice of sending by any convenient opportunity rather than by a special or stated post was of long standing. Thus Walley, in writing from Bristol to Governor Hinckley at Plymouth May 8, 1690, declares that he sends by his "neighbor Throop to save the charge of a post" (*Mass. Hist. Soc. Coll.*, vol. V., fourth series, p. 255). There were unaccountable delays in transporting the mails to and from Connecticut. In 1673 the letter from William Coddington of Rhode Island to Governor John Winthrop at Hartford (to be forwarded "with speed") in which the former announces that "we . . . have selected a post from this Island to New London," was endorsed by the latter as received on the twenty-second of August, although it is dated the sixth (*Ibid.*, vol. VII., pp. 292-3). The journey between Newport and New York, partly by packet against head winds, and partly on horseback through Long Island, was accomplished in five or six days, which could have been done entirely by boat, with favorable winds, in less than two days. (*Severall's Diary*, vol. I., pp. 318, 319.)

† *Sic*.

Whereof Red Last month by Letters Inwards.	£.12 ^u 12: 8
And to Receive of the severall Inferiour posts outwards sent	£. 9 ^u .4: 8
	<hr/> £21 ^u 17 ^u .4
So falls short this month	£15 ^u 18: 2
	<hr/> £37: 15 ^u .6

which Sum is short p^{r} annum about £190: 0: 0

And as to forraigne Letters which pay 2^d a $\frac{1}{4}$ ^d whereof goes to the M^r the other $\frac{1}{4}$ ^d expended on those that brings the Letters ashore & to the office, & the other penny Lost In dead letters remaining in the severall offices, so that the 2^d for forraigne letters amounts in the end to nothing, onlie supplies the deficiency of dead letters.

which £37: 15: 6 p^{r} Quarter is p^{r} week £9: 9: 0

whereof red Inwards Last week	£.2: 11: 10
and to Receive sent out last week	£.1: 11: 0

	£.4: .2: 10
So falls short this week	£.5: 6: 2
	<hr/> £.9: 9: 0

And makes short p^{r} annum about £275: 0: 0" —

Ibid., p. 342.

On the second of June the petition and memorial were referred by the Council to Elisha Hutchinson and John Foster, who, on the next day, reported as follows, the clause fixing and apportioning compensation being omitted:—

"Wee are humbly of opinion that an order be made by this Great & Gen^l Assembly that all Masters of ships & vessells arriving here under the penalty of five pounds deliver their letters to the Post Master or his deputy sealed up in a bag or bundle with an Alphabetical list fairly drawn up—for each letter to receive of said Post Master one half penny—

That the now accustomed rates or prices be paid for Letters

That a sume be allowed to M^r John Cambell for his encouragement to help support his charge—he haveing hitherto taken care of Publick letters which otherwise must have had expresses provided to forward y^m £20. for y^e time past, and £40. for y^e year ensuing.

And that the said Cambell be freed from Impresses Trainings & watches dureing his employment of Post Master

June 3^d 1703

ELISHA HUTCHINSON

JOHN FOSTER."—*Ibid.*, p. 341.

This report the Council forthwith accepted, and after adding the clause in Italics as above, sent the report to the representatives as an order for them to concur in. On the twenty-second of July the House concurred with an amendment changing the amounts italicized, from twenty and forty pounds to ten and twenty pounds, respectively, to which, on the same day, the Council agreed and the Governor consented.

On the fifth of August, 1703, an order for the payment of ten pounds was passed by the Council • and on the eighteenth of July, 1704, the Board† issued a warrant on the province treasurer for twenty pounds under this chapter, and the treasurer's accounts‡ contain entries charging Campbell with those amounts.

Chap. 31. This chapter is from council records, vol. VII., p. 415. It has not been found in the archives.

In his speech at the opening of the Assembly this year the Governor congratulated the representatives that "neither the coast nor our open frontier to the continent have been troubled with the enemy," which condition of peace he attributed to the small military force sent by him to the eastern parts of the province in fulfilment of his intention as expressed in the note to chapter five of the resolves of the year 1702-3.

The good results expected of the treaty of June 3, 1701,§ and of the Governor's interview with the Indian chiefs at Pemaquid in July, 1702,|| were retarded by the conduct of Captain Samuel Chadwell of the privateer sloop Flying Horse, who in March, 1703, at Naskeag Point opposite Mount Desert, plundered the house of Paul Meunier, a Frenchman, killing the owner and beating "one or more of the Indians" to whom he was allied and who were under the protection of the province.

The Governor took prompt measures to make all due reparation for this injury, forthwith summoning Chadwell before him, depriving him of his commission, breaking his sword, and committing him a close prisoner to the Castle, at the same time ordering the plunder to be returned and directing the Indians to collect what evidence they could of the injuries inflicted by the prisoner. Meanwhile he examined the crew of the Flying Horse, and ordered them to return to the sloop "and to attend their duty on board," evidently to have them in readiness as witnesses in further proceedings.

This conduct of the Governor and his promises of reparation being communicated to the Indians at Penobscot by Messrs. Penhallow and Atkinson, who were dispatched for that purpose by the Governor, elicited from them professions of entire satisfaction, inso-much that Major March sent a dispatch to the Governor that the Indians were so well pleased with the promised restitution to be made to them and to Meunier's widow "that they did not desire any person should be put to death for the killing of said Meunier, but otherwise punished."

* Executive Records of the Council, vol. 3, p. 464.

† *Ibid.*, vol. 4, p. 46.

‡ Mass. Archives, vol. 122, pp. 200, 234.

§ Note to resolves, 1702, chapter 66.

|| *Ibid.*, chapter 54.

This dispatch the Governor laid before the Council on the first day of May.

The prospect of reconciliation continued for several weeks, as appears by the following passage in Dudley's speech * at the opening of the first session of the next Assembly :—

"I Expected when I last parted from you I should have given you an Account of another Enterveiw I might have had with the sachems of the Eastern parts which I Judge very Necessary but the Infraction made by our own people upon some of them in freindship wth us at Penobscot delayed mee untill I might have given them a very full assurance that the mischeif done upon them was without my Knowledge which by the restitution of their goods and the severe treatment of those Ill men I beleive by this time is done to their satisfaction and has now given mee a propper time again to Demand their Attendance upon mee which all my officers in those parts urge may be presently upon many good reason." — *Mass. Archives, vol. 108, p. 8.*

The relations between the English and the French allies of the Indians, however, were not wholly reassuring. Two weeks before the Governor uttered the foregoing speech he had been obliged, while informing the Council that the Indians of Pennecook had "returned to their usual settlement there," and that he "hoped they would be kept in good order," to communicate letters from Major March and Captain Southack, sent express "from Casco Bay, advising that upon Munday the 10th current, one Newman, Master of a Sloop, and his company being four in the whole, as they were cutting of spars upon Cousens Island in Casco Bay, were surprised by three Frenchmen & three Indians armed, who killed one of the s^d Newman's men, kept two more prisoners, and having rifled the sloop, sent the s^d Newman in her to Casco Bay. And that upon his arrival there with the s^d Intelligence, the s^d Major March and Captⁿ Southack had sent to Moxis and the other Indian Sachems to Inform them of what had hapned. And to know whither any of their Indians were Actors in the s^d Insult, and whither they countenanced the same, and also made out a party of Men to go to the place and bring off the body of the dead Man."†

The Governor now felt that the situation on the eastern frontiers demanded his presence at the earliest convenient opportunity. On the thirty-first, therefore, he announced to the Assembly his intention "to go to the Eastward, To Morrow seven Night [Tuesday, June eighth] to speak with the Indian Sachems & to endeavour to steady them in the English Interests."‡ Accordingly, on the day appointed, he adjourned the General Court to the thirtieth of June § in order to prevent any interference with the legislative duties of himself and of those who were to accompany him. On the ninth || he left Boston on his way to Casco Bay. On the thirtieth the conference with the Indians was concluded.

Although the Governor returned by the seventh of July ¶ the proceedings at Casco Bay seem not to have transpired until the ninth of August, when Sewall "at the Coffee House" read the journal or report ** thereof, and made the abstract printed below.

* May 27, 1703.

† May 14, 1703. Executive Records of the Council, vol. 3, p. 437.

‡ Council Records, vol. VII, p. 390.

§ It was continued by three subsequent adjournments to Thursday, the eighth of July; for, the Lieutenant-Governor having returned by the thirtieth, sent a message to the House on the second of July, and no business being offered by the latter he adjourned the Assembly first to the fifth and then to the eighth.

|| As by vote of the Council of New Hampshire Captain Thomas Smith, commander of the Gosport, received "forty pieces of Eight, from the Treasurer of this Province, on board, on their voyage to Casco Bay" (*Provincial Papers of New Hampshire, vol. II., p. 400*), it is probable that the vessel sailed from Portsmouth, and the following entry in Sewall's Diary rather confirms the supposition that the Governor embarked there :—

"June 9, 1703. Gov^t and Lt Gov^r set out for Ipswich in order to goe and meet the Indian sachems." — *Vol. II., p. 80.*

¶ "July, 7th 1703. Mr. Secretary, Major Walley, Major Brenton and I went by Charlestown to the hether edge of Maldon, and so met the Gov^r in his Return homeward from Casco-Bay." — *Ibid., p. 81.*

** This report he borrowed on the twelfth and made from it the following abstract :—

"CASCO-BAY, June 30, 1703.

The Queen of England in six months time of War with French King and Spanish King, has Taken more Towns and done more Exploits, than the great and valiant King William did in Twelve years. And besides all this which she hath don by Land, her Fleet by Sea hath taken 40. Salls; Taken much Money, the Royal Crown sent the Spanish King from N. Spain. Notwithstanding all this I offer peace. T^{was} once very dark here about 20 or 30 years ago; was great Troubles, and also great Troubles among our selves. New Hundred now, new Century, and would have the Old Hundred to be forgotten, and never talk'd of any more; New Hundred, new Queen, new Governour now will be all in new friendship. When any French March through the Country, Stop them or give notice to the Port: For it is easy if there be but Ten Indians in some parts of the Country to fetch away whole families, and they not able to defend them selves. I have very particular Intelligence from Kebeck and Port Royal, they have two parties out at this time, would have you keep back those parties according to the Treaty of peace made two years ago. I do it not to boast of my self, but I Trust in God. I have Twelve Hundred and fifty men impress'd in N. England, ready to march at Six hours warning: they are enough to disturb all the Indians in the Country. Indians are able like Wolves to disturb men, but not to do them any damage; they are not able to hurt us in the least, and I value them not, no more than the paring of my nails. And the great Queen of England has order'd me 17. sail of Men of War all superior to the Gosport; which I may improve to do any thing upon the French or any of our Enemies. And I am confident that time will come that nothing, nor no one will remain but English here and Indians. For the Indians part they may remain a happy people if they will themselves.—I have the Awe-lance of the Noble Gov^r of N. York, who is a Kinsman of the great Queen of England.—I acknowledge have kept their promise in not passing Saco River.—If arrest and stop French parties will give them a good Reward for it. And methinks I see among you some that I know that are fit to be made Officers to bear Comission for the Queen of England, to bear Rule among you, who shall be my Officers, and shall be Rewarded from time to time, as my other officers at Boston, or any where else are; every month they shall be paid off as our own people:—have nothing more in the world to say but to persuade them that I am an honest man and their Brother:—our boys and youth will go and do beyond their prudence or strength; but these old men these Sachems here present, they and I are old men and should be discreet and wise, so as that when we dye we

This abstract is the only record of the treaty now known to exist.

There is a discrepancy as to the date of this treaty in the accounts of Niles and Penhallow, on the one hand, and Sewall, on the other. The former, which have been uniformly followed by late writers, make it the twentieth, while the latter, as shown above, dates his abstract of the treaty the thirtieth, of June. These conflicting statements may be reconciled by supposing that the conference was called for the twentieth and actually held on the thirtieth. That the treaty could not have been concluded at the former date is clear from the following entry in the council records:—

"June 30, 1703. His Honour the Lieutenant Governour received an Express from his Excellency dated at Casco Bay the 27th of June Currant, intimating that he is necessarily detained there, The Indians not coming in so soon as he expected, And that he wanted the Assistance of the Gentlemen of the Council & the Speaker of the Representatives & could not dismiss them at present, Directing his Honour to send for the Representatives, And to intimate to them to proceed to the Adjustment & Settlement of the Apportioning of the Tax granted at the Session of the General Assembly held at Cambridge in October last, And that he hoped to see them in ten Days."—*Vol. VII., p. 401.*

The councillors who accompanied the Governor on this "journey and voyage" were Elisha Hutchinson, John Phillips, and James Converse. With them were other gentlemen from Massachusetts and New Hampshire.

As early as the thirty-first of May, when the Governor first proposed his visit to Penobscot, he announced to the Council his intention to appoint Belcher commissary-general,* and on the eighth of June, when he was about to prorogue the Assembly to begin his journey, he read to the Council and signed his commission for that office, whereupon the Council passed the following order:—

"June 8, 1703. Advised and Consented. That a Warrant be made out to Mr Treasurer to advance and pay upon accompt unto Andrew Belcher Esq^r Commissary General the sum of Five hundred pounds to be employed for the procureing and purchasings of Provisions and stores for the supply of her Maj^y's Forts, Garrisons, Souldiers and Ships of War improved and to be improved in her Maj^y's service for the defence of this Province."—*Executive Records of the Council, vol. 3, p. 450.*

might be carried to our Graves with honor. Let them consider two hours and give me their Answer — Gave them a good Ox and 20—bushels corn for diſer: They return'd Thanks for their noble diſer and all other Kindnesses offer'd to them. Then, said his Excellency here is a Peace, and Satisfaction to the two Nations.

INDIANS ANSWER.

First breach was at Penobscot, which was the first thing in the morning. The 2^d was the Frenchmen and Indians, they broke the peace in doing that mischief at Casco: but we do affirm that we did not know of their coming, but of their going back we knew of it: but we calling to remembrance what was don at Penobscot before, and so we thought fit not to meddle of neither side.

TWO BEVERS.

Again they say that what his Excellency was pleased to tell them, was not the same as their French was, i. e. to make war his Excellency would have them. His Excellency's desire is that we should be peaceably on both sides, for which we return him many a hearty Thanks and tell him we resolve to doe it.

TWO BEVERS.

His Excellency was pleas'd to desire them in the next place that if any of the English should be Taken by the French and carried over their Ground or through their Country, that we should bring them back again, and not suffer them to be carried through as Captives; but that we should do well to bring them back again. But if we should do so, such a thing as that would make us seem guilty, and so thereby we might be thought to be concern'd, when we are not.

TWO BEVERS.

There is about the Mohawks a great many ready to fight, not certain of the number, but hope to know in a day or two, for have sent scouts to Albany.

TWO BEVERS.

Again they wonder that his Excellency would be pleas'd to tell them, or desire any of them to come upon wages upon any account. For they desire it not. But their desire is to be as Neuters; not to meddle nor make, nor to stir or act in any thing one way or other.

THREE BEVERS.

Now they desire to come and pay their Respects to the Gov^r, since have said all they have to say.

Gov^r will have them stay and hear his Answer a little—Action at Penabscot and Casco much alike: But Gov^r N E. hated the Action as to the Frenchmans death: Gov^r French nourished and Imbraced the Casco breach; sent them to do the thing. If resolve to sit still and be quiet, I shall remain perfectly satisfied in all things and desire to remain as an entire and dear Brother unto them.

May stop the French from Marching through their Country and yet remain Neuters still; they mistake if think otherwise: Be call'd Captains and Officers; why this is pure honor meant to them not that they should be expos'd to march or fight, but to be as my Brother, as I am to them. And if I would honor them so far as to make them Captains and to send them a present now and then, why it is honor: not that I desire they should be expos'd to fight upon any occasion. Tell Moses I am willing to honor Moses' son that was with me, with the place of a Captain here; not that I expect him to be expos'd to fight; no not so much as to fire a piece: but that we may live as Brothers and that I may send him a piece of Cloth once a year.—Peacock Indians not return till after Harvest.

Then the Gov^r and Sachems repaired to the heaps of stones, and put up each man a stone again."—*Diary, vol. II., pp. 85-87.* [For an account of the beginning of these stone-heaps see the note to resolves, 1702, chapter 66.]

* His Excellency intimated to the Council, That it being necessary a Commissary General should be appointed for the Supply of the Garrisons & Forces ["Forts," according to the State Library series] &c employed in this Time of War, He should Commissionate Andrew Belcher Esq^r for that Place."—*Council Records, vol. VII., p. 391.*

For some time before this appointment Belcher had supplied her majesty's garrisons and vessels of war with provisions; thus, April 16, 1703, his accounts for that service were committed to John Walley and Penn Townsend "to examine and report the same,"* and on the first of May the following entry appears in the executive records of the council:—

"May 1, 1703. Several Accounts of Andrew Belcher Esq^r for Provisions &c^a supplied for the Sloop Sea Flower and the Ship Greyhound, both taken up in her Maj^{ty}'s service. For provisions to subsist the souldiers posted in her Maj^{ty}'s service at Wells, for storage of Powder and other disbursements for the Province, amounting in the whole to the sum of Two hundred sixty four pounds, five shillings and four pence (including thirty six shillings and Ten pence payable to Josiah Parker of Cambridge) audited and Reported by John Walley and Penn Townsend Esq^rs were approved and allowed—And

Advised and Consented That a Warrant be made out to M^r Treasurer to pay the above mentioned sum of Two hundred sixty four pounds five shillings and four pence to the s^d Andrew Belcher Esq^r accordingly."—*Ibid.*, p. 435.

The office of commissary-general seems not to have been regarded by the General Court as purely military, for in September following Belcher's appointment a message sent from the Council to the House proposing "an establishment for a commissary-general and two sub-commissaries for the forces" resulted in the choice of Belcher by the joint vote of the Council and House. Although this vote is recorded as of the eighth, Belcher's accounts as commissary were allowed on the sixth; but it is noticeable that in this chapter the mention of his office seems intentionally omitted.

The order in Council† for the payment of this allowance was passed August 5, 1703, and by the province treasurer's account‡ the order appears to have been duly complied with.

The commissary's account did not embrace all the expenses incurred on this occasion, as appears by the following entries in the executive records of the council:—

"July 9, 1703. An Account of Expenses in his Excell^{cy}'s Journey to Casco Bay in June last with attendants and Guard, amounting to the sum of seventy one pounds, three shillings and two pence, was presented, read & allowed—and.

Advised and Consented. That a Warrant be made out to M^r Treasurer for payment of the said sum of seventy one pounds three shillings and two pence, unto Captⁿ Benja^m Alford for defraying of the several articles of Expence therein mentioned.

Advised and Consented. That a Warrant be made out to M^r Treasurer to pay the sum of nine pounds, eleven shillings and eight pence unto John Honywell for Eleven hundred and fifty pound of Fresh Beef had of him, and expended at the time of his Excellency's late conference with the Sachems & Indhans at Casco Bay."—*Ibid.*, p. 451.

Chap. 33. This chapter is from council records, vol. VII., p. 418. It has not been found in the archives.

Taylor was "anew chosen" treasurer of the province on the eighth of June, 1703.§

The order in Council|| for the payment of this allowance was passed August 5, 1703, and in his official account¶ he charges himself with this amount.

Chap. 34. This chapter is from archives, vol. 101, p. 245. It is preserved in council records, vol. VII., p. 418.

The particulars of this journey and voyage are given in the note to chapter 31, *supra*.

The order in Council|| for the payment of this allowance was passed August 5, 1703, and by the province treasurer's account** it appears to have been duly paid.

Chap. 35. This chapter is from council records, vol. VII., p. 419. It has not been found in the archives.

See note to chapter 12, *ante*.

Chap. 36. This chapter is from archives, vol. 62, p. 442. It is recorded in council records, vol. VII., p. 419.

The resolve which constitutes this chapter was based upon the following letter, addressed "To The Hon^{bl} Major Converse Speaker To the House of Representatives:"—

S^r/

"July 12^o 1703/.

Several Gentlemen Attending his Excellency to the Eastward, Ocation'd an Extraordy^y expence of fire Candles. Beer &c. w^{ch} I hope will be Consider'd by the Hon^{bl} Assembly, havinge noe allowance on the Close on my Accts for any Such. Extra^r Charge; therefore hope it will be taken into y^{or} Consideration w^{ch} shall be humble Acknowledge by

S^r Your most humble & Obedient S^t

WM^m STANTON."—*Mass.*

Archives, vol. 62, p. 442.

This letter was read in the House on the fourteenth of July, where, on the twenty-third, the resolve was passed in the form in which it appears in this chapter. On the next day it was read and agreed to in the Council and consented to by the Governor.

For the particulars of the Governor's voyage in the Gosport see note to chapter 31, *ante*.

* Executive Records of the Council, vol. 3, p. 429.

† *Ibid.*, p. 464.

‡ *Mass. Archives*, vol. 122, p. 186.

§ Council Records, vol. VII., p. 398.

|| Executive Records of the Council, vol. 3, p. 463.

¶ *Mass. Archives*, vol. 122, p. 191.

** *Ibid.*, p. 193.

A similar allowance* was made to John Watson, purser of the same vessel when she conveyed the Governor and company to Pemaquid the previous year.

The order in Council† for the payment of this allowance was passed August 5, 1703, and the province treasurer's account‡ shows that it was duly paid.

Chap. 37. This chapter is from council records, vol. VII., p. 419. It has not been found in the archives.

The order in Council† for the payment of this allowance was passed August 5, 1703, and the province treasurer's account§ shows that it was duly paid.

Chap. 38. This chapter is from council records, vol. VII., p. 420. It has not been found in the archives.

In July, 1704, Samuel Tyley was the keeper of the Green Dragon Tavern on what is now Union Street in Boston.

The committee for whose entertainment the allowance granted by the resolve upon which this chapter was based was the committee appointed by resolves, 1702, chapter 29, and whose authority was continued by chapter 70 of the same year. See the note to the former chapter.

The order in Council† for the payment of this allowance was passed August 5, 1703, and by the province treasurer's account|| it appears to have been duly paid.

Chap. 39. This chapter is from council records, vol. VII., p. 420. It has not been found in the archives.

In the archives is preserved a certificate relating to the bills of credit mentioned in this chapter, as follows:—

“Boston March 26th 1703

This may Certifie whome it may Concern That of the late Bills of Credit many of them were counterfeited of y^e small Bills Viz^t 2/. made 10/ & 2/6 made 20/ but it is discovered the counterfeit by y^e date; the 20/ being of y^e 10th Decemr 1690. & y^e 3th 0. — 5th .0.0.2/. & 2/6. are dated the third of February 1690. And I am satisfied that a 20/ Bill shewed me by Edw^d Bromfield Esqr cannot be a Counterfiet because the date being the 10th of Decemr 1690 being y^e same date all y^e 20/ Bills did bare, y^e smaller sort being of another date Viz^t of y^e 3^d of February 1690

As Attest JER. ALLEN Cl^r to y^e Treasur^r. — *Mass.*

Archives, vol. 101, p. 240.

Chap. 40. This chapter is from archives, vol. 70, p. 640. It is recorded in council records, vol. VII., p. 421.

The resolve which constitutes this chapter is based upon two memorials by Colonel Römer, one of which, dated July 22, 1703, has not been found in the archives; but the statement which accompanied it is as follows:—

“An Acco^t of what it may Cost, to finish all y^e Works on Castle Island, excepting y^e Long room & Demi-Bastion towards y^e South point of s^d Island.

<i>Impr^a</i>	to finish all y ^e remaining platforms, & Carriages, every where, both in y ^e upper & lower Fortification	100. “ —
2.	to finish y ^e South Curtain, make y ^e buildings on each side of y ^e Armoury for y ^e Commander & y ^e Armourer, y ^e Kitchen, & to put a new pump in y ^e Well &c.	183. “ —
3.	to make y ^e Vaults in two more of y ^e Bastions y ^e one for a prison, & y ^e other for stores, abo ^t	70. “ —
4.	to make y ^e Guardhouse at y ^e SE flanker, abo ^t	50. “ —
5.	to do y ^e remaining Earth & Sod work, with palisadoes may Cost about	80. “ —
6.	to cover y ^e 4 Centry boxes w th lead, at least	20. “ —
7.	for provision, & incident charges abo ^t	50. “ —
		£553. “ —

Boston July y^e 22, /1703

WOLFGANG WM RÖMER.” — *Mass.*

Archives, vol. 70, p. 639.

The following is the second memorial:—

“To y^e Honble

Mr Speaker & Gentⁿ of the House of Representatives—

You were pleased to direct me to give you in a second Memoriall of all y^e particulars that are to be don upon Castle Island for finishing y^e fortifications there, more than what I set forth in my last Memoriall of the 22th instant.

In Obedience whereunto, I am of Opinion that y^e Long room for lodging y^e major part of y^e Garrison, y^e Demibastion, y^e securing of y^e lower Well w^{ch} is of very great necessity & importance, y^e little houses, y^e covering y^e port holes below & above, y^e covering & securing y^e powderhouses against y^e sea side, y^e staircase at y^e North West gate of y^e Lower Battery, & those on y^e platforms &c will cost about four hundred & fifty pound more with good management to finish y^e same. And accordingly I will still stand to my Word, that all y^e particulars in this my present & former Memoriall, shall be faithfully finished according to my best skill & judgment with said mony if not with less, & that I

* Resolves, 1702, chapter 55, and note.

† Executive Records of the Council, vol. 3, p. 464.

‡ *Mass. Archives, vol. 122, p. 193.*

§ *Ibid.*, p. 192.

|| *Ibid.*, p. 202.

shall never desire any more money to be raised on that acct^r for y^e future, provided I may be maintained in y^e discharge of my Office in peace & quietness, & not ly any longer under such unjust persecutions & obstructions, as I have hitherto don, & that this Hon^{ble} house will be pleased to address his Excellcy, that effectuall care may be taken that all such Workmen & Labourers as shall be employed in said Work, may not play their fowl play, as many of them have all along don, & still do. under which miserable circumstances, I am quite wearied out of my life with sorrow & chagrin, & am not able (my strength & soul being almost gon) to slave it in that manner I have for these 3 summers running, & more especially y^e last but I shall (if it please God) be at y^e Castle 2 or 3 times a week, may one of y^e Castle boates attend me for that purpose. Upon w^{ch} head & other considerations I find my self obliged to make my humble address to his Excey w^o knows in a great measure my unhappy circumstances, & that I am in no capacity to undergoe those toilsome fatigues w^{ch} have hitherto ben my portion. I should otherwise readily continue my service with y^e same Zeal & fidelity for her Majty & this province, as I have don hitherto. with which protestations I take leave & subscribe my self

Gentⁿ Y^{or} most faithfull & obed^t servt

Boston 27th july 1703 —

WOLFGANG W RÖMER." — *Ibid.*, p. 637.

The statement appears to have been read in the House on the twenty-sixth, and the second memorial on the twenty-seventh, of July, when the resolve was framed and passed and sent to the Council for concurrence. On the same day it was concurred in by the Council and consented to by the Governor.

The circumstances which led to the retirement of Captain Timothy Clarke, one of the committee to manage the expenditure of money appropriated for the works on Castle Island, have been shown in the note to resolves, 1702, chapter 34, and in chapter 15 of the resolves of the year 1702-3 and note. Upon the passage of the present chapter Thomas Brattle asked to be relieved from further service upon the same committee unless he could be permitted to exercise, in conjunction with his former associate, the authority with which they had been originally invested. Brattle's petition is as follows:—

"To his Excellcy Joseph Dudley Esqr Captain General & Govern^r in Chief in & over her Majty's province of the Massachusetts Bay in New England, y^e Hon^{ble} her Majty's Council & Representatives in Gen^l Court assembled at Boston.

The petition of Thomas Brattle of s^d Boston Esqr

Most humbly sheweth.

That whereas Colonel Römer her Majty's Engineer through his restless & ambitious humour not being satisfied with getting Capt^{ne} Timothy Clarke & y^{or} petition^r put out of one part of y^e Commission granted & confirmed to them by severall Gen^l Courts of this province, namely, to givo Order & Direction for y^e Reparation or new making of Fortifications on Castlo Island, has now by his false & foolish Insinuations, as if y^e s^d Clarke & y^{or} petit^r were not so good husbands for y^e publick as they should be, & knew not how to manage that affair so well as himself, Obtained an Order of this Hon^{ble} Court for his Directing & managing y^e laying out of y^e mony now granted for finishing y^e Works on said Island, w^{ch} was y^e other part of their Commission, by both which actions of his, y^{or} petition^r dos humbly conceive y^e s^d Col^l Römer has very much Obstructed her Majty's service in y^e finishing s^d Works—

Your petition^r therefore having ben thus shamefully abused & Disparaged by means of s^d Colonel Römer, notwithstanding his utmost endeavours at all times to please & oblige him, & not being able any longer to keep in so good terms with him as is necessary for y^e publick service, Dos humbly pray this Hon^{ble} assembly will be pleased to Discharge y^{or} petition^r, & comply with him in his deliberate & fix'd resolutions of being no further concerned in any wise wth y^e s^d Colonel Römer about s^d Fortifications, unless y^{or} petition^r may be fully restored wth Capt^{ne} Clark to their first Commission, & thereby protected from y^e unjust usurpations of him y^e s^d Colonel Römer.

And y^{or} petition^r shall ever pray &c

Boston 29th july. 1703

TIO. BRATTLE." — *Ibid.*, p. 644.

This petition was read, first in the House and then in the Council, on the thirtieth, without further action until the fifth of August, when the following order and vote of advice were passed:—

"Aug. 5, 1703. Whereas Thomas Brattle Esqr being further impowered to lay out the money granted by the General Assembly at their last Session for finishing the Fortifications on Castle Island, as Col^l Römer her Majty's Engineer should direct, has declined further intermeddling in that affair.

Ordered. That Col^l Römer have the care of laying out the s^d money — and.

Advised and Consented. That a Warrant be made out to Mr Treasurer to pay him one hundred pounds of the sum last granted by the General Assembly. He to be accountable to the Board for his disposal thereof accordingly." — *Executive Records of the Council*, vol. 3, p. 460.

On the thirteenth of August a warrant on the province treasurer for the payment of two hundred pounds to Brattle, out of the seven hundred pounds granted by this chapter, was ordered by the Council,* for discharging debts contracted during his term of service; and a warrant for one hundred pounds more for the same purpose was ordered on the twenty-first of October.† In like manner, besides the warrant for one hundred pounds ordered to Römer in the above vote of the Council, an order was passed on the twenty-eighth of October‡ for paying one hundred and fifty pounds, on Römer's account, to Zechariah Tutbill, captain of the Castle; another, on the twenty-third of December,§ for one hundred pounds to Römer, and still another, January 31, 1703-4,|| to him for fifty

* *Executive Records of the Council*, vol. 3, p. 470.

† *Ibid.*, p. 486.

‡ *Ibid.*, p. 490.

§ *Ibid.*, p. 505.

|| *Ibid.*, vol. 4, p. 17.

pounds; thus completing the sum allowed by this chapter. All these warrants are charged in the province treasurer's account* in one item as having been paid.

Chap. 41. This chapter is from archives, vol. 70, p. 643. It is recorded in council records, vol. VII., p. 422. See note to chapter 31, *ante*.

Chap. 42. This chapter is from archives, vol. 62, p. 443. It is recorded in council records, vol. VII., p. 423.

The order which constitutes this chapter originated in the Council on the twenty-eighth of July. It was read in the House on the same day, and concurred in and consented to by the Governor on the twenty-ninth.

Chap. 43. This chapter is from archives, vol. 40, p. 775. It is recorded in council records, vol. VII., p. 424.

By chapter 16, *ante*, appeals to the Superior Court from the Inferior Court of Common Pleas in Hampshire in the years 1701 and 1702 were revived, to be entered at the regular term in August, this year; but by the present chapter the beginning of that term was postponed to the first Monday in September, on which day an act† was passed discontinuing the terms of the Superior Court in Hampshire "for and during the continuance of the present danger and troubles with the Indians," and providing for all pending and future appeals from the Courts of Common Pleas and from the Courts of Sessions. In accordance with this chapter therefore, the Superior Court did not sit in Hampshire this year, and no record exists of a session there before August 18, 1698, nor after that date until August 30, 1716.

Chap. 44. This chapter is from council records, vol. VII., p. 425, and archives, vol. 70, p. 642.

The following is the petition referred to in the preamble to this chapter:—

"To his Excellency the Governour, The Honorable the Council and Assembly now sitting in Boston

The humble Petition of John Partridge of Piscataqua
Humbly sheweth.

That your Petitioner was appointed and Comissioned field Marshal for the year 1692. by Sr William Phips and faithfully served that post near two years. —

During which time he provided and expended by Order of the several Commanders of these forces The Honble Colo Hutchinson Esqr Major Pike & Major Converse and others the Sum of Ninety eight pound, eighteen shillings and one penny, for the cure of Wounded men and their subsistence, and hath duly paid it every penny, and has never yet received one penny wages nor payment of the said Debt, and is from a plentiful Estate now reduced to poverty,

The Commission and Orders from time to time [and] the approbation of the Officers accounts are annexed.

The Petitioner humbly prays the Justice and favour of this Court, that he may have the just paymt of his Wages for the sd Office, and for his disbursement aforesaid to support him in his age and poverty. and he shall ever pray. —

JOHN PARTRIDGE." — *Mass.*

Archives, vol. 70, p. 644.

This petition was read first in the Council on the twenty-seventh of July and sent to the House, where it was read the same day and committed. On the thirtieth the order which constitutes this chapter was passed by the House with the following preamble:—

"This House having by a Committee carefully Examined the Petition and Accs of John Partridge and Considered, what Part of the charge ought to be Defrayed by this Province, and what Part by the Province of New Hampshire, and being Desirous that the Petitioner may have his Right, etc. — *Ibid.*, p. 642.

Unfortunately, Partridge's commission, probably unique in its kind, and the orders and certificates which were annexed to his petition have not been found in the archives nor discovered in any private collection; but it appears from an entry in the executive records of the council,‡ under date of September 25, 1704, that a certificate from the treasurer of the province of New Hampshire of the payment of the £48 18s. was produced at the Board, and that thereupon it was advised that a warrant be made out for the payment of thirty pounds, — another warrant for twenty pounds having been issued August 5, 1703.§ The province treasurer's accounts|| show that on both of these warrants Partridge was paid according to order.

Chap. 45. This chapter is from council records, vol. VII., p. 425, and archives, vol. 70, p. 632.

The following is the petition mentioned in the preamble to this chapter:—

"To His Excellency Joseph Dudley Esqr Cap Jenerall Governour and Commander in Cheef in and ouer Har Magistis province of the Masachusetts Bay in Nuingland and Honored Councile and Representatives in jenerall Court assembled The petition of John Boolb humbly shunth y^e in the yere 1675 your humble petisionor was impressed in to His Magistis seruis and marched to Naregausit fort fight under y^e Command of Cap Johnson who was there slaine in Battel my self sorely wounded by A bulet being shot into my back aftor I was wounded I was caried som twenty miles in a very could Night laid in A could

* *Mass. Archives*, vol. 122, p. 186.

† *Province Laws*, 1703-4, chapter 8.

‡ Vol. 4, p. 79.

§ *Ibid.*, vol. 3, p. 464.

|| *Mass. Archives*, vol. 122, pp. 203, 234.

chamber a wooden pillo my couering was y^e snow the wínd droue on me a sad time to war in to be wounded the in A letele time I was mowed to Rodisland from thence hom to Hingham where I remained two yers and upward helpes my diit and tendence cost the cuntry not one peny after I came home had I not bin heped by my Neighbors and frinds I had perished before this day but in time through gods goodnes to me I atained to so much strenght that I came to do some small labor thow with much paine by reson the bullit is in my body to this day but now age coming on and natorall forse begins to abate my former pains do increas upon every letel could or chang of wether by reson of my wound I lost my arins and so many clothes as at lest was worth fower pound yet not withstanding all this your humble petisinor neuer recined one peny neither for his wegis los of time diit nor smart and paine which I indurid abundance which is a greef to me and a great discourregment to others for seruing in the lik sernis when thay se and here my misfortin it may be said whi was this let alone so long I humbly answare I was pore and helpes not haucing mony which is one sine of busines the pore man was forgot to this day I do humbly creane youer Exelcey and honnors would take your pore petitionors case [in *] to your conideration and do as in your wisdom you shall think meet to help a pore wound soulder to his jurnis ind I hope the God of Heanen will blees you with spirituall and temperall blessings and I shall as bound in duty euer pray.—

JOHN BOOLL.—"Mass.

Archives, vol. 70, p. 631.

With this petition the following certificates were filed:—

"Hingham July 10th 1703

Whereas John Bull of Hingham hath preferd a petion to the Hon^{ll} Genarall Court Now siting in Boston: refering to his wages due to him for his sernis in y^e former warr with y^e Endins at Naragancest: and that theire might be some Allowance to him for his Loss of time by reason of his wounds rec^d in y^e naragancet fight And the s^d John Bull understanding that theire is A coldness of efecion towards him by rason the matter is of so long standing hath therefore desired us whose names are hereunto subscribed to signifie to y^e said Court something that may be satisfactory that they may comiserate his conduction which is pore and Low wee the subscribers hauing bin acquainted with y^e s^d John Bull about thirty years or upward hane at all times found him in his actions and conuersation to be a man of trnth And do also know that he hath bin from time to time and still is unfitt for any hard Labour by rason of his wounds rec^d in y^e warr and do also belue that he hath not as yet rec^d any wages for his serus in y^e warr

DAVID HOBART THOMAS ANDREWS THOMAS THAXTER
JAMES HAWKES: / SAM^{ll} THAXTER SAMUEL LINCOLN."—*Ibid.*, p. 633.

"These may Certify to whome it may Concern that John Bull of hingham was very Dangerously wounded in his Back, & Continued Lame near about y^e Tarni of two years & hath ben Impard Ever since for his labour or Business which wound was recevd in y^e naraganceth fight in y^e year 1675—I never heard that s^d Bull hath recevd eny Satisfaction for his smart & loss of time

as witness Pr me JOHN CUTLER."—*Ibid.*, p. 634.

This petition was read in the House on the second of July and referred to a committee, upon whose report the resolve which constitutes this chapter was passed on the thirtieth and sent to the Council for concurrence, where it was concurred in and consented to by the Governor.

The order in Council † for the payment of the allowance for this year was passed August 5, 1703, and by the province treasurer's accounts ‡ it appears not only that this amount was duly paid, but that annually thereafter, up to July 30, 1719, Bull was paid his pension of two pounds. According to Savage he died December 1, 1720.

Chap. 46. This chapter is from archives, vol. 48, p. 359. It is recorded in council records, vol. VII., p. 425.

The earliest movement that has been discovered looking to the establishment of a stated salary for the governor of this province is the following petition by Sir William Phips, on file in the Public Record Office:—

"To the King's most Excellent Majestie

The humble Petición of Sr William Phips Knt Governour of Your Majesties Province of the Massachusetts Bay in New England.

Most humbly sheweth,

That the Generall Assembly of your Majesties Province of the Massachusetts Bay in New England have made noe provision for defraying the necessary expence of Your Majesties Governour of the said Province And notwithstanding they have had it under consideration a sallary is not yett appoynted for that end But your Majesties Peticióner most humbly conceives it will bee appoynted as soon as Your Majesties Royall Will and Pleasure concerning it is signified unto them.

Hee therefore most humbly prays, That Your Majestie will bee graciously pleased to nominate such a Sallary as Your Majestie shall in your Royall wisdom judge sufficient for the support of Your Majesties Governour of the said Province And that Your Majesties Comands concerning the same may bee signified unto the Generall Assembly of Your Majesties Province aforesaid That they may yeild obedience thereunto.

And Your Majesties humble Peticióner as in duty bound shall ever pray for Your Majesties long and Happy Reigne &c

WILLIAM PHIPS."—"New Eng-

land, *Board of Trade*," vol. 1, C. 26.

Though the petition is without date, and no memorandum has been discovered showing when it was presented to the Privy Council or to the Lords of Trade, it must have been

* Manuscript mutilated.

† Executive Records of the Council, vol. 3, p. 464.

‡ Mass. Archives, vol. 122, p. 192, *et seq.*

before the passage of the first act* ordering a sum to be paid "the Governor, for his service and expence since his arrival," if the allegation is true that the Assembly at the date of his petition had "made no provision for defraying" his "necessary expense," etc.

No trace has been discovered of action upon this petition, nor any further move in the same direction until Dudley became governor. Among the articles of the royal instructions bearing date March 5, 1701-2, which the latter brought with him, was the following, numbered sixteen, which had been procured undoubtedly by his solicitation or with his connivance:—

"Whereas it is necessary that due provision be made for the support of the Government of our said Province by setting apart sufficient allowances to you our Captain General and Governor in Chief and to our Lieut. Governor or Commander in chief for the time being residing within the same And whereas our said Province of the Massachusetts Bay has not hitherto taken any manner of care in that matter, tho' the like provision be generally made in our other plantations in America, which are under our immediate Government notwithstanding that divers of them are much less able to do it, You are therefore to propose to the General Assembly of our said Province and accordingly to use your utmost endeavours with them, that an Act be passed for settling and establishing fixed Salaries upon yourself and others our Captains General that may succeed you in that Government, as likewise upon our Lieut. Governors or Commanders in Chief for the time being, suitable to the dignity of those respective offices."—*Ibid.*, vol. 33, pp. 30-60.

The seventeenth instruction recommended the building of a house for the governor.

Dudley did not conceal these commands of the queen. In his first speech to the Assembly, June 16, 1702, he addressed to the representatives the following language, in which he carried the spirit of his instructions beyond the letter:—

"I am further Commanded By her majesty to observe to you that there is no other Province or Governmt^t Belonging to the Crown of England Except this where there is not Provided a fit and convenient House for the Reception of the Governour and a settled, stated salary, for the Governour, Leiv^t Governour, Secretary Judges and all other officers which therefore is Recommended to You and since this Province is so particularly favored By the Crown in more Instances than one, their more Ready obedience is Justly Expected in this and all other occasions."—*Mass. Archives*, vol. 108, p. 3.

The innovations thus boldly proposed by the Governor were not regarded with favor by the conservatives, and added to the discontent of the popular party. If Dudley so understood the temper of his hearers as to have no fear of violent opposition, the representatives were equally well aware of his weakness, and confident of their ability to overcome his scruples. Therefore, a little more than a week after they had listened to his professions regarding the duty of obedience to the queen's commands, they, as has been shown,† voted to him a present of five hundred pounds; and embodied this vote in the form of a bill, which, three days later, was passed to be enacted and received the Governor's signature. Having thus become a party to this evasion of the royal instructions Dudley prorogued the Assembly, not to meet again in legislative session until October.

When the Governor met the General Court, October 15, 1702, in its second session, he again addressed the representatives as follows:—

"I Did the last session also by Her Majesty's Especiall Command, Lay before you the necessary Provision of a House for the Government at Boston, and a salary for the Governour the Lieutenant Governour, the Judges, and other Officers of the Government, I am Obligated to Tell you Gentlemen that there is no other Part nor Province belonging to the Crown of England, where there is not a stated Honorable support for the Governour and all other Publick Officers, arising from the Countrey, and I hope we shall Prevent it's being Observed at home, that we are particularly Privileged, and as singular in the neglect of our Duty, I shall lay before the House of Representatives a List of all Officers of salary, and shall Desire your Consideration of it in the first place, and I am sure I have no reason to doubt your Regard to Her Majesty's Directions, to my own just Expectation from you, Either for my self Or any other the Officers of the Government. . . . I have done when I have Told you Gentlemen that I shall serve Her Majesty faithfully and doubt not the same from the other officers, that therefore Expect a just support in their severall stations."—*Ibid.*, p. 5.

The response to this was the further grant of two hundred pounds by the resolve, chapter 61 of that year, passed after the Governor had called the representatives before him‡ to remind them of the queen's instructions, which he now formally communicated to them. But the communication came too late. The act of the previous session to which the Governor had affixed his signature in token of consent and which was probably already before the Privy Council, where it was approved in due course, was a precedent that might be effectually set up against any contrary previous orders or directions of the queen. But not to insist too strictly or parsimoniously upon their undoubted privileges this last grant was passed by the Assembly upon reconsideration of a resolve in which they had voted the Governor six hundred pounds for the year, including the first grant of five hundred pounds.§

The manner in which Dudley was induced to accept this grant, made in disregard of his instructions, appears on the face of the resolve as printed in volume VII. A similar course was pursued in the present instance, and, as will be seen, he was again induced to take what the Legislature offered him in the expectation that the amount would be subsequently increased to his satisfaction.

During the special session of 1702-3, Dudley seems not to have alluded to the subject of the judges' salaries; yet while in his opening speech,|| May 27, 1703, he earnestly rec-

* March 7, 1692-3. See Province Laws, vol. I., p. 109, notes.

† Resolves, 1702, chapter 20, and foot-note.

‡ November 11, 1702.

§ Resolves, 1702, chapter 61, note.

|| See note to chapter 60, post.

ommended that these be increased, the only hint he made respecting his own salary is contained in the following passage:—

"And Gentlemen I must freely acquaint you that it would be the Last Inconvenience upon mee to be forced to represent to her Majesty that the Government of this province must fayle in any part or branch of it for want of a Just support for persons in publick offices, which will be absolutely new from any plantation belonging to the Crown of England.

I shall Continue Gentlemen to do my duty and as much as in mee Lyes to steady every body in theirs, and doubt not of assistance from all good men that Love the Crown and Government of England and the Just dependance thereupon especially under the serene and happy administration thereof in the hands of her present Majesty."—*Ibid.*, p. 9.

Upon the approach of the last week of this session, nothing having been done towards providing for the Governor's salary, a committee was sent from the Council to the representatives to move "for an Allowance to be made to his Excy. for his Service in the Government in the Year commenced & of what fell short the Year past."*

In response to this motion the resolve which constitutes this chapter, and which was passed by the House of Representatives on the twenty-third of July, and was concurred in by the Council on the thirtieth, was first read in the Council on the twenty-fourth. On the same day it was "sent back to the House, with a message to reconsider the same." On the twenty-seventh, the representatives having returned it to the Council "without any Alteration . . . the Secretary with Andrew Belcher & Edw^d Bromfield Esq^{rs} were sent with the said Resolve on a Message to the House for Explanation thereof, Whether it was a Gratuity or Payment for Service & for what Time, And to move the Consideration of the House for a suitable & Honourable Allowance to be made his Excy. Agreeable to his Station, as her Majesties Govern^r for the year Currant."†

No immediate response being made to this message, and the Governor intending to prorogue the Assembly on the thirty-first, he summoned the representatives to the council chamber and addressed them respecting sundry matters which he deemed it important for them to act upon, and "Also reminded them of a suitable Support for the Govern^r Lieuten^t Govern^r & Justices of the Superiour Court."‡

This was on the twenty-eighth, and on the twenty-ninth the resolve was again returned to the Council with no further alteration than the words "in part" inserted instead of the word "towards;" and on the next day it was passed, and consented to by the Governor.

The order in Council § for the payment of this allowance is dated August 5, 1703; and this amount, together with the further sum of two hundred pounds allowed to Dudley by chapter 114, *post*, is charged as paid to him in the accounts || of the province treasurer.

Chap. 47. This chapter is from council records, vol. VII., p. 426. It is preserved in archives, vol. 40, p. 755.

The case in which the petitioner named in the preamble of this chapter sought relief of the General Court is interesting, not only as illustrating the practice of the provincial courts of law at an early period, but as being the cause of the passage of a perpetual act ¶ regulating the proceedings of the Superior Court upon appeals from judgments in bar or abatement.

Major Thomas Clarke of Boston, who died testate March 13,** 1682-3, devised his estate to his two daughters, Mehitable, the wife of Humphrey Warren, and Elizabeth, the wife of Elisha Hutchinson, in the following words:—

"For my temporall Estate I give and bequeath unto my daughters Mehitable Warren and Eliz^z: Hutcheson. whome I appoint my Executrixes, they paying all my just debts and Legacies that I here bequeath in convenient time."—*Suffolk Probate Records, lib. 6, p. 405.*

By another clause of this will he charged the devised real estate with the payment of certain legacies, one of which, of one thousand pounds, was to the eldest son of his daughter Elizabeth, "to be paid when he comes to the age of twenty-one years, or day of marriage, with consent of parents, which shall be first."

This legacy would not be payable before June 17, 1699,†† unless the legatee should marry before that date, which he did not do.

On the first of October, 1697, Mehitable Warren, describing herself as of Boston, and a widow, conveyed to her "kinswoman," Mehitable Cooper, wife of Thomas Cooper of Boston, merchant, "and to the heires of her body begotten or to be begotten their heires and assignes forever all that my one Eighth part of the Grist Water mills, situate standing and being in Boston afores^d being five in number, three whereof are situate at or neer a place commonly called and knowne by the name of Centerhaven in the present keeping and occupation of John Farnham sen^r miller, and the other two situate upon the Mill Creeke so called, in the present keeping and occupation of John Farnam Jun^r miller Together with one Eighth part of all and singular the soile and ground whereon the s^d mills and millhouses and every of them do stand, and of the said houses, Edifices & Buildings, and also of all and singular the milldams Bankes wharves, Lands, Ponds pooles, streames, Waters, Watercourses, Headwares Flumes, millstones Wayes, passages, rights, members, profits, priviledges, comodities emolnments, advantages, Utcusils and appurtenances what-

* July 23, 1703. Council Records, vol. VII., p. 417.

† *Ibid.*, p. 420.

‡ July 28, 1703. Council Records, vol. VII., p. 422.

§ Executive Records of the Council, vol. 3, p. 463.

|| *Mass. Archives*, vol. 122, p. 101.

¶ Province Laws, 1703-4, chapter 13.

** According to Farmer and Savage.

†† Edward, the first-born child of Elisha and Elizabeth (Clarke) Hutchinson, was born June 13, 1678.

soever to the s^d mills and to each and every of them, incident, belonging or in any wise appertaining, or with the same now or at any time heretofore used, occupied, held taken reputed or enjoyed also all the Estate right Title Interest use property possession claim & Demand whatsoever of me the s^d Meheta^l Warren of in and unto the s^d mills and each and every of them, and all other the beforementioned to be granted premisses with their and every of their members and appurtenances by vertue of the last Will and Testament of my Father Major Thomas Clarke sometime of Boston afores^d Dece^d exented the twenty second Day of May 1680 duly proved and of Record, whereof and wherein I am named and appointed an Executrix, or by vertue of any Legacy, bequest or Wherein in the s^d Will contened or howsoever my right and Interest to and in the same Do's arise and acerne with the Reversion & Revertions, Remainder and Remainders thereof,"* to have and to hold the same (and, immediately after the decease of the grantor, the reversion and remainder thereof) to the said Meheta^l Cooper "and heires of her body begotten or to be begotten,"* forever; "and in Default of such Issue to the next and right heires of the s^d Meheta^l Cooper, on the side of her mother"* to their own proper use, etc., reserving to the executors or administrators of the grantor "the profits of the s^d mills and every of them that shall be due at the time of my Death and from thence unto y^e time of the next reckoning according to the usuall manner in the month of January following."*

Endorsed on this deed was another from the same grantor to the same grantee revoking the reservation of the grantor's life estate and granting and releasing the whole estate to the grantee with a like limitation as in the former deed. This deed was dated May 24, 1700.†

Madam Warren died July 20, 1701, whereupon, it would seem, Hutchinson, assuming that the devise created a joint tenancy in the two sisters, at least for their joint lives, took possession of the whole of the estate in the right of his wife, the surviving sister, and leased to Richard Stratton and William Story the whole of the three grist-mills of which Meheta^l Cooper claimed an undivided eighth part under the deeds from Madam Warren. These mills were situated at or near "Centre Haven," which appears to have included the vicinity of the south-western base of Copp's Hill, and the water power was probably supplied from a tide-gate in the old causeway that gave the name to Causeway Street, and formed the western side of the basin which had an eastern opening to supply other mills west of Mill Bridge on Hanover Street.

To establish their right to a share in the mills, Cooper and wife brought suit "in a plea of trespass and ejectment" against Stratton and Story in the Inferior Court of Common Pleas for Suffolk, of which Elisha Hutchinson was at that time chief justice.

The declaration in the writ (which was dated September 19, 1702,‡ and returnable on the first Tuesday of October, following) charged that the defendants "have Illegally Entred into & doth refuse to deliver to the S^d Thomas Cooper & Meheta^l his s^d wife in the right of the s^d Meheta^l," the share and premises heretofore described "in the present keeping and occupation of the Said Richard Stratton & William Story" and that they, "altho' often thereunto requested the possession of the afores^d eighth of the afores^d three grist water mills . . . to the s^d pl^{ts} to deliver have hitherto refused and Still refuse to deliver the possession of the same to them." The *ad damnum* was put at five hundred pounds.

The writ was served by Samuel Gookin, sheriff, who took bond from the defendants in five hundred pounds to appear and answer to the suit.

On the fifth of October the defendants executed a joint power of attorney § appointing Anthony Checkley and John Valentine to appear for them in their names in "all courts." This being filed with the clerk, the cause came on to trial before Hutchinson, John Foster, Penn Townsend and Jeremiah Dummer, who had been newly appointed justices by Governor Dudley — their commission being read at the opening of the court. The record, after the caption, is as follows: —

"Thomas Cooper of Boston in the County of Suffolk merch^t & Meheta^l his wife pl^{ts} v^z Richard Stratton & W^m Story of Boston afores^d millers Def^{ts}, In a plea of Trespass & Ejectm^t for that the s^d Richard Stratton & William Story have Illegally Entred into & do refuse to deliver to the pl^{ts} the possession of one Eighth part of Certain grist Water mills situate lying standing & being in Boston afores^d in the present keeping & occupation of the Def^{ts}. Together with one Eighth part of all & singular the soyle & ground whereon the s^d mills & mill Houses do stand & of the said Houses & and appur^{ts} whatsoever to the s^d mills belonging, as in the writ or process, reference thereto being had, is at large sett forth & described, the refusing to deliver the possession of the same to the pl^{ts} is to their damage as they say the sum of five hundred pounds. The Def^{ts} appeared by Anthony Checkley their attorney & moved the Court that the writ might abate for that they the Def^{ts} were only servants & not Tenants and therefore an action of Ejectm^t would not well lye against them as such. It was Considered by the Court after advisement, That the writ should abate for the Insufficiency thereof, and that the Def^{ts} recover Costs ag^t the pl^{ts}; The pl^{ts} appealed from this Judgm^t unto the next Superiour Court of Judicature to be holden for this County and Entred into Recognizance with sureties as the Law directs for prosecuting of their said appeal with Effect." — *Records in the office of the clerk of the Superior Court in Suffolk County.*

The next session of the Superior Court was held on the third of November, and by law the declaration of reasons of appeal was required to be filed fourteen days before that time. Accordingly, on the nineteenth of October, Joseph Hearne, attorney for the appellants, filed in the office of the clerk of the Superior Court the following paper: —

* Suffolk Registry of Deeds, lib. 18, fol. 12.

† *Ibid.*, lib. 19, p. 370.

‡ Suffolk Court Files.

§ See note ‡ to private act, number eight, vol. VI., p. 62.

"Suffolke ss To the honoble the Justices of her Majties Superiour Court of Judicature to be held at Boston the first Tuesday of November Anno 1702./

Tho: Cooper & Mehitable his wife *Appellts* } The Appellts
Richard-Stratton William Storey of Boston } reasons of Appeal
in the County aforesd millers — *Appellees*

from a Judgmt^t obtained agt^t them by the Appellees at her Majties inferiour Court of Common Pleas held at Boston the first Tuesday of October 1702./

The Accoñ was an Accoñ of Trespas and Ejectmt^t brought by the Appellts agt^t the Appellees for the Eighth part of the mills &c as set forth in the Attachmt^t/

To which the Appellees moved the Court that the writt might abate for that they said they were only serv^{ts} and not Tenants & therefore an Accoñ of Ejectmt^t would not well lye agt^t them as such./

Upon which the writt abated for insufficiency.

Which Judgmt^t the Appellts say is wrong & Erroneous and ought to be reversed for that.

The Appellees whether they were Tent^s or not were in the p^{re}s^{en}t occupacoñ of the p^{re}misses sued for and in possession of the p^{re}misses sued for at the time of the comencing of said Accoñ and therefore the Appellts conceive the Accoñ was well brought and ought to have proceeded and not abated the Appellees being the only persons the Law could take notice of./

Which matters and things being duly considered by your Honours the Appellts hope your honours will see Cause to reverse the former Judgmt^t and Order the said Accoñ to proceed

J. HEARNE P^{ro} Appell^{ts}." — *Suff-*

folk Court Files.

To this declaration the attorney for the appellees filed the following answer :—

"The answer of Rich^d Stratton and W^m Story appellees to the Reasons of appeal of Thomas Cooper and Mahitable his wife appellts, from a nonsuit of an accoñ at the Inferiour, Court of Comon pleas held at Boston the first Tuesday of october 1702; to the Su^{pe}riour Court of Judicature to be held at Boston the first Tuesday in Novembr following where the now appellees were plts & y^e now appelts defts The accoñ was an Action of Trespas & Ejectment wherein the then plts were non suit, having Commenced their ation agt the now appellees as is already sett forth; who were not Tennants in possession of the p^{re}misses sued for, & therefore the writt abated for very good Cause

1st The Appellees answer that no appeal can ly for a non suit, for the Judges declaring the writt to be Insufficient is no judgmt^t; for the Cause was nev^{er} heard, so the appellees. p^{re}s^ume there can be no judgmt^t!

2 If the declaring of a non suit be a judgment then a pl^t may be wholly barr'd from ever having a hearing of ye merits of his Cause w^{ch} is Contrary to the Law, which saith that three judgmt^s for a pl^t or a def^t shall finally issue y^e Cause; and perhaps a pl^t may be nonsuit at an Inferiour Court & alsoe vpon an appeal & Review, w^{ch} will wholly exclude him, th^o not a word of the merits of the Cause be heard;

Wherefore the appellees humbly pray to be dismiss'd with Costs. there being no ground for a hearing

JNO VALENTINE att^y for the appellees." — *Ibid.*

The case was argued before the full bench, but the point taken being novel and perplexing the court ordered the clerk to make the following entry in his records :—

"The Court will advise untill the next Superiour Court to be holden in May next." — *Records of the Superior Court of Judicature, 1700-1714, fol. 84.*

At the May term the full bench sat again, and after further hearing the pleas on both sides the court took cognizance of the plea in abatement, overruling it, and, as shown by the record, the case proceeded, as follows :—

" . . . The Defend^{ts} now appearing pleaded That an appeal cannot ly from a non suit, The pleas of both parties being Considered Its determined by the Court That an appeal from an Inferiour Court upon a non suit does ly in this Court. It's farther Considered That the former pleas are Insufficient to abate the Writ That the Inferiour Courts Judgment be and hereby is Reversed and that the Defend^{ts} proceede to Tryall. Elisha Hutchinson Esq^r comes into Court & prays to be admitted Defend^t in the Room of Richard Stratton & William Story, he Claiming the premisses Sued for which is allowed by the Court. Who pleaded by John Valentine his attorney Not Guilty in maner & forme as the writt Supposeth.* Upon which Issue Joined the Case after a full hearing was Committed to the Jury who were Sworne to try the Same & Returned their Verdict therein vpon That is to say they find Specially in the words following to wit That is to say they find for the appl^t the Estate in Controversie & Costs of Courts if Madam Warren had any Right to Give it away before devison but if she had not Right to give it away before division then we find for the appellee Costs of Courts Its therefore Considered by the Court that the s^d Thomas Cooper & Mehitable his wife Recover of the s^d Elisha Hutchinson one Eight part of the s^d mills with their appurtenances and Costs of Courts Taxed at Seven pounds." — *Ibid.*, fol. 93.

After the verdict, and before judgment had been entered, Hutchinson filed the following paper, in the nature of a motion in arrest of judgment :—

"To the Hon^{ble} Superior Court now Seting in Boston. May the 7th 1703.

In a Case where Tho Cooper &c is pl^t Rich Stratton & W^m Story Def^{ts} vpon an appeale from an abatement, Elisha Hutchinson was admitted deft, and after hearing the case, The Jury brought in a special Verdict

* Upon being admittid to plead to the original action Hutchinson joined issue thus, on the bottom of the writ: "The De^{ft} Elisha Hutchinson Esq^r pleads not guilty in maner & forme as the writt supposeth
JNO VALENTINE att^y Def^{ts}." — *Suff-
folk Court Files.*

Cooper &
Hutchinson

Execution
Issued out
June 1703

S^d Hutchinson humbly pleads that for divers Reasons & Laws to be produced the case ought not to be given against him.

The foundation of the title proceeds from y^e Last Will of Maj^r Tho Clarke, and therefore special regard must be had to the same.

A mans Will ought to be held inviolable & unalterable.

Godolphin* Ch. 26.
P. 478, S. 150.

Maj^r Clarke the Testator, his Intent may be known by the words of his Will.

The testator shall be presumed to have that in his thoughts, w^{ch} is not contained in his words. S. 31.

Where the Testators intention may be known by the words of his Will, there all the words in y^e Will are to be caryed to answer his intent. S. 112.

In the right construction of Wills the Testators intention weighs heavier in Judgment than his words, &c and the words must be all the words and not only one part of them. S. 113.

Out of the words of the Will, and not by averment must the construction of the will be gathered. S. 120.

The intent of the devisor, may alter the very nature of the words in a Will.

S. 122.

In the construction of Wills, the words must be guided by the intent of the testator, and such an intent as may be collected out of all y^e words of the will together :

S. 140.

Maj^r Clarke the Testator, did intend that his two daughters, Mehetable Warren and Elizabeth Hutchinson, should joyntly enjoy all his reall estate (after debts & Legasies paid) during their natural lives, and after them to his heirs at Law That this is the Testators minde & meaning is plaine, for the bequest is in y^e following words.

For my temporal Estate I give & bequeath unto my daughters, Mehetable Warren & Elizabeth Hutchinson, whome I appoynt my Executres, they paying all my Just debts and Legasies that I have bequeathed in convenient time.

The bequest is to his daughters by name, and not to their heirs, nor for Ever, therefore to them personally, and but for life, and that Joyntly and not seperately, much less to the assignes of one of them, while the other is living, and never was acquainted with the Conveyance.

after his daughters decease the Testat^rs intent is that his Real Estate should goe to his proper Heirs, & not to any strainer tho nearer related then the plaintiff, no not to his daughters Husbands his sons in Law, and therefore givs each of them One hundred pounds, to put them out of hopes to Enjoy his reall estate.

In case the posterity of both his daughters should die before the time of Recieving their portions, Then he givs £.1500. to an Hospitall, and where should this mony be had, if the Estate can be given away to strangers.

And therefore finally takes care that his Onerseors Endeavor to see his will performed, and that security be given for his Gran-childrens portions.

The Testator givs his Reall Estate to his daughters as Joynt Tenants during Life, and not in ffee simple.

Littleton,
Lib. 3. Ch. 3.

Blunts Law dictionary saith Joynt Tenants are those that com to, and hold Lands or Teniments Joyntly by one title. *pro indiviso* or with out pertition and have the sole quality of survivorship.

Coke on Littleton
P. 180.

A. deviseth to his two daughters his Heirs, to them and their Heirs his Lands, they shal be Joynt Tenants. (1) One hath Issue two daughters and deviseth Lands to them in ffee, by this they shal be Joynt Tenants and shal com in by the devise, and the survivor shal have the whole. (4) or if one have only two daughters and devise his Lands to them in ffee, by this they shal take as Joynt Tenants and not by descent.

Godolphin P. 477
S. 126.

P. 312.

If one Joynt Tenant devise his part to a stranger the devise is voyde.

P. 296. S. 6.

Ea intentione in a Will makes a Condition

P. 178. S. 146

A legatery can not trasfer his legacy if he die depending the Condition

P. 464. S. 22

A legaterys Leagey is not transferable to his Execut^rs if die before the accomplish^t of the Condition thereto annexed.

S. 25.

Madam Warren did die before the accomplish^t of the condition, therefore could not trasfer the mills

Altho payment of mony makes a ffee simple in some cases. This holds true only in case the intent of the Testator doth not appere to be otherwise.

Godolphin P. 321.
S. 2.

now it apperes by what hath been said aboue that Maj^r Clarke the Testator did not Intend to pass his real estate to his daughters, as an Inheritanc in ffee simple, by payment of mony.

But he makes that payment a Condition, w^{ch} Condition was not performed, when Madd Warren made that deed, on y^e 1st Octobr 1697. nor was y^e principal Legate (who was to Recieve £.1000) then of age to Recieve the same, or give discharge, then being not 19 years & 4 months outd, and was not to Recieve his Legacy till 21 years of age nor is the Legacy yet paid.

The statute of 31. II. S. P. 489. title Joynt Tenants & Tenants in Common S. 2. saith that Joynt Tenants and Tenants in Common, shal & may be compeled to make pertition of all such Lands as they hold as Joynt Tenants &c

The Law of this Province is the same, Joynt Ten^{ts} may be compeled to divide by writ of pertition.

fo. 45.†

So that the making of this statute plainly shows that no one Joynt Tenant could sell, much less give any part belonging to the Joynt Tenantry.

for if one could dispose with out the other there was no need of making this statute, and less need to make so many statuts about it.

If one could dispose, the other might, if a part, then the whole, and then all the Legatarys had been disapoynted.

Then this deed made by Madd Warren one of the Joynt Tenants, with out the least knowledg of the other Joynt Tenant, no pertition ever being made, frustrates the intent

* Godolphin (The Orphan's Legacy) is the authority cited. See private acts, number two, p. 11, foot-note §.

† Province Laws, 1693, chapter 8, § 1.

of Maj^r Clark's Will, and gives his Estate to those he never Intended should Injoy it. and therefore the deed is Voyde in Law.
ELISHA HUTCHINSON." — *Suff. folk Court Files.*

This motion failing, he had recourse to the following petition, being the same that is mentioned in the preamble to the order which constitutes this chapter:—

"To his Excellency Joseph Dndley Esq^r Cap^t General & Govern^r in chief in and over her Maj^{ty}'s Province of the massachusetts Bay in New England. The Hon^{ble} Council and Representatives in General Court assembled. 26. May 1703.

The Petition of Elisha Hutchinson humbly Sheweth.

That Whereas Mr Thomas Cooper of Boston merch^t in Right of his Wife commenced an action, at the Inferiour Court of pleas in October last past against Rich Stretton and Will Story millers, for that they illegally entred into & did refuse to deliver one eighth part of three Grist mills in Boston near Center Haven, in the present keeping and occupation of sd Stretton and Story &c. where they appeared by their attorney pleaded in abatement of the writt that they were but servants to the owners, and that the owners were in possession & not they, therefore they did not withhold possession, & ought not to be sued, which plea was allowed and the writt abated. The plaintiff appealed to the Hon^{ble} Superiour Court, where after six months Consideration, sd Court over ruled the plea; and said the Case must go on to a Tryall, & would not suffer any further plea for abatement of the writt. altho the acts of assembly for Regulating Tryalls * p. 213. and the act for Review † p. 214. say, each party shall be allowed, & have the benefit of any new & further plea and evidence. The appelles then pleaded that sd Superiour Court had not proper Cognizance of that Cause, it never having been heard nor Tried in an Inferiour Court, and if they should be overruled to make an Issuable plea, they should lose the benefit of the Law (which allows three Tryalls, Original, appeal, and Review) for if they have the first Tryall in the Superiour Court, there is nothing left but a Review to the same Court, and that being overruled.

Y^{or} Petitioner was under a necessity of desiring to be admitted Defend^t and then obliged to make an Issuable plea notwithstanding he pleaded the Law (Title An act prescribing forms of writts in Civil Causes) wherein it is said That all civil actions &c. shall be originally heard & Tried in an Inferiour Court of Comon pleas But this Cause hath neither been heard nor Tried in sd Court.

After the pleading the Cause & the Jury sent out, some of the Jury came in with a motion to the Court, and were told That, if they could not agree they must bring in a special verdict: They return'd with that wch they called a special verdict. To witt They find for the appellat the estate in Controversy, and Costs of Courts, if Madm Warren had any Right to give it away before Division; but if she had no such Right then we find for the appellee Costs of Courts.

Its therefore Considered by the Court that the appellant recover the estate sued for & Costs of Courts.

Both pl^t & def^t Claim a Right to the estate sued for. by Major Clark's last will Therefore the mind of the Testator ought by the Jury to have been enquired into and a Positive verdict given in by them & not to have left it to the Court, there being no point of Law mentioned in the verdict.

Being thus forced to a Tryall, (as I apprehend) contrary to the above recited Laws) I am greatly dammified and denied the Comon benefit of the Law —

Therefore y^{or} Petitioner humbly prays this hon^{ble} Court that he may be relieved herein, by making null & void the sd Judgm^t & that they declare That in all Causes, the merit of the Cause shall first be heard and Try'd in an Inferiour Court notwithstanding an appeal from a nonsuite, Barr or abatement of the writt, or that some other effectual remedy may be provided for y^{or} Petitioner and others in the like Cases.

And Y^{or} Petitioner shall ever Pray :

ELISHA HUTCHINSON." — *Mass.*

Archives, vol. 40, p. 754.

This petition was read first in the House on the thirty-first of May; but it was not until the twenty-seventh of July that an order was passed thereon and sent to the Council. This order, which was read in Council on the twenty-seventh and again on the thirtieth, was nonconcurrent in by the Board on the thirty-first and returned with the second clause or sentence of this chapter substituted for the order as drawn by the House. The House now reconsidered its former order, and concurred in the action of the Council with a further amendment by which the words "sitting of the" were inserted after "next," and thus amended it was consented to by the Governor.

For the report of the judges and further proceedings in the case see chapter 89, *post*, and note.

Chap. 48. This chapter is from archives, vol. 101, p. 246. It is recorded in council records, vol. VII., p. 426.

See act, 1702, chapter 8; resolves, 1702, chapter 74, and 1702-3, chapter 14; and chapters 22 and 23, *ante*.

The order in Council † for payment of the one hundred and twenty-five pounds granted by this chapter was passed August 5, 1703, and this amount, together with the further sum of £18 6s. allowed to the committee by chapter 84, *post*, is charged as paid to them in the accounts § of the province treasurer.

* Province Laws, 1701-2, chapter 5, § 9.

† *Ibid.*, chapter 6, § 1.

‡ Executive Records of the Council, vol. 3, p. 463.

§ *Mass. Archives*, vol. 122, p. 192.

Chap. 49. This chapter is from archives, vol. 48, p. 360. It is recorded in council records, vol. VII., p. 427.

The instructions received by Governor Dudley in reference to the establishment of a fixed salary for the Lieutenant-Governor, and the proceedings thereupon by the Governor and the Legislature down to the thirtieth of July, 1703, appear in the note to chapter 46, *ante*.

The dispute between the two branches in reference to allowing pay to Povey in the two capacities of Lieutenant-Governor and Captain of the Castle, the history of which up to the date of this chapter is given in the note to resolves,* 1700-1, chapter 62, remained unsettled and was the subject of further communication and continued difference, as will appear in the note to resolves, 1704-5, chapter 32.

The order in Council† for the payment of this allowance was passed August 5, 1703, and by the province treasurer's account‡ it appears to have been duly paid.

Chap. 50. This chapter is from archives, vol. 40, p. 776. It is recorded in council records, vol. VII., p. 427.

Although a majority of the judges of the Superior Court were newly nominated by Dudley as early as June 30, 1702,§ the bench was not filled nor the court formally organized and opened until several weeks later.|| The former judges received their last allowance under the resolve of November 18, 1702,¶ which also raised their salaries from forty-five to fifty pounds per annum. This was owing, doubtless, to the earnest recommendations of Dudley. Notwithstanding the subject of establishing salaries for the judges had not been included in his instructions, he had represented in his first speech to the Legislature that the queen's commands for the establishment of "a settled stated salary," extended to them,** and at the beginning of the second session he had contrasted their small pay with the munificent compensation allowed to the judges in "the next province."††

Eight days before the passage of the resolve for paying the former judges, and in that resolve as originally drawn, the House had passed, and sent to the Council, for concurrence, a clause for allowing and paying fifty pounds to each of the new judges, for the current year, "beginning from the Date of their Comission."‡‡ On the eighteenth the Council voted that this clause be "left to Consideration,"§§ possibly in the hope that the representatives, in deference to the Governor's repeated recommendations, would increase the allowance.

In his speech at the beginning of the first session of the Assembly of 1703-4 the Governor again introduced the subject, as follows:—

"I have had a late earnest application §§ on behalf of the Judges of the Superior Court in whose hands are the Administration of the Lawes referring to the Lives and Estates of all her Majestyes good subjects of this province, acquainting mee that the allowance made them will by no means support their charge nor put them beyond Contempt in their stations. I shall be very sorry to have the Administration of Law fayle in this great province upon that head and I Assure you Gentlemen I have not many persons in the province to name in their places if any of those whom I take to be men of Honor should refuse the service upon that Account." — *Mass. Archives, vol. 108, p. 9.*

The Assembly, however, deferred action upon the subject until the Governor had again "reminded them of a suitable support for the governor, lieutenant-governor and justices of the Superior Court." This was on the twenty-eighth of July, and on the thirty-first the House renewed the resolve which they had formerly passed and which the Council had had under consideration from the previous year. Upon being again sent to the Council it was immediately concurred in, and consented to by the Governor.

The order in Council† for the payment of this allowance was passed August 5, 1703, and in the province treasurer's account‡ the aggregate sum of two hundred and fifty pounds is charged as paid to the judges, by name.

Chap. 51. This chapter is from council records, vol. VII., p. 427. It is preserved in archives, vol. 17, p. 94.

Chap. 52. This chapter is from council records, vol. VII., p. 428, and archives, vol. 70, p. 646.

The account mentioned in the preamble to this chapter seems to have been only the following voucher, upon the back of which the resolve was written:—

"Province of Maine, November ye (14th) (1689) Received of Mr Edw^d Toogood for the use of yr Maj^{ties} Soldiers in sd^d province/—

Imp^{rs} four quarters of beefe w^d four hundred & twenty five l^{bs}

& to yr dyating three Soldiers Eight dayes

to one man more quartered three weeks—

* See also, 1702, chapter 62.

† Executive Records of the Council, vol. 3, p. 463.

‡ Mass. Archives, vol. 122, p. 191.

§ Executive Records of the Council, vol. 3, p. 341.

|| "Aug^t 15. p. m. . . . Col. Hathorne . . . chosen: Gov^r delivers him his Com^{is}sion, then me and Maj^r Walley. Said would never insert himself any way to influence any proceeding before; which has many times done with great Vehemency; exhorting us to doe Justice. Addington, Hathorne, Sewall, Walley sent for Mr. Ellisha Cooke jun^r: constituted him our Clerk, and gave him the Oaths. So now the Superior Court and Inferior Court Suffolk are both open'd this day; . . ." — *Sewall's Diary, vol. II., p. 63.*

¶ Chapter 64.

** See note to chapter 46, *ante*.

†† See note to resolves, 1702, chapter 64.

‡ Mass. Archives, vol. 101, p. 234.

§§ This application has not been found; but a later one, presented to the Council August 19, 1704, appears in the notes to resolves, 1705-6, chapter 46.

to pastering horses for y^e troopers so much as amounts to one hundred and sixty dayes and nights./.

Dat: as abone,

Pr: JER: SWEYNE
Commandr in Cheife

attest: JAM^s CONVERSE Captⁿ. — *Mass.*

Archives, vol. 70, p. 645.

The order in Council * for the payment of this allowance was passed August 5, 1703, and the province treasurer's account † shows that it was duly paid.

Chap. 53. This chapter is from council records, vol. VII., p. 431. It has not been found in the archives.

No sooner had Governor Dudley returned with a favorable report of his conference with the Indians at Casco Bay than the prospect of peace which he had fondly entertained ‡ was dashed by threats of fresh hostilities by the French and Indians. The first indication of this in the records is the following entry:—

"July 9, 1703. His Excellency communicated to the Council several Letters from Casco Bay, Saco, & Piscataqua brought this Morning by Bomazeen § & an other Eastern Indian, Importing the Intelligence express'd by Moxus one of the Sachems of the Arrival of a great French Ship in Mount Desart, & that he mett several French Men from the said Ship with some Cape Sables Indians coming Westward with Intent to commit Hostilities upon the English & Incited the Eastern Indians to join therein, And the said Letters being read were sent down to the House of Representatives

His Excellency further communicated his Intention to set forth one of the best Sailing Shallops of Marblehead under the Command of the Lieutenant of her Majesties Ship Gosport & twenty or thirty of her Men with the Allowance & Consent of Cpt. Thomas Smith their Commander, to discover & Report what they should see, & to have his Excellencies Instructions. And that Bomazeen & the other Messenger be rewarded for their Duty with a good Coat, Shirt, Neck Cloth & Hat each of them, & be return'd by the said Shallop to their Place; And that Andrew Belcher Esqr be desired to take Care to provide the said Cloathing & of the Equipping of the Shallop: All which is Approved." — *Council Records*, vol. VII., p. 404.

Twenty days later the Governor communicated both to the Council and to the House further intelligence of hostile preparations of the enemy. The nature of this information and the steps taken by the Governor to resist invasion, and the action of the representatives thereupon are shown in the following entry:—

"July 29, 1703. His Excellency intimated to the Council, That Lieut. Coll. Tyng was come from Dunstable to Acquaint him that yesterday there came in thither two Indian Men || & Watenumans Sister from Pegwaket, to inform him that two Men of their Compa came lately from Chamlet near Mount Real, where they saw One Hundred & fifty Indians arin'd gather'd together & join'd with some few French, Intended to be divided into three Companies, One for the Eastw^d An other for Merrimack & the third for Connecticut River to insult the English Settlements

And His Excy. sent a Message to the House of Representatives to Acquaint them thereof, Whereupon Mr Speaker attended with a Committee of the House came up, And his Excy. intimated to them that he had two Companies of Men Fifty in each used to the Woods ready enlisted, One Company in the County of Essex & the other in the County of Middlesex, And proposed to send out thirty or forty of each of the said Parties for a Scout on the Line of the Frontiers from Haverhill to Marlboro, & to make an other Scout of the two Companies in Pay within the County of York from Haverhill to Saco to make Discovery of the Approach of the Enemy & observe their Motions: Mr Speaker express'd his Approbation thereof & that He beleived it would be agreeable to the Mind of the House.

Andrew Belcher Esqr was sent on a Message to the Representatives, To desire that if the House approved the Proposal of his Excy. to Mr Speaker & their Committee relating to the Scout upon the Frontiers, they would express it by a written Vote." — *Ibid.*, p. 423.

In the vacation of the Assembly, which was prorogued from the thirty-first of July to the first of September, the worst apprehensions of the enemy's hostile designs were realized upon the approach of a body of French and Indians led by the Sieur de Beaubassin.

On the seventh of August Sewall enters in his Diary, ¶ "From the Eastward, Fear of the French and Indians, some being seen." On the eleventh occurs the further entry,

* Executive Records of the Council, vol. 3, p. 464.

† *Mass. Archives*, vol. 122, p. 203.

‡ See note to chapter 31, *ante*.

§ "July, 8, p. m. . . . Bomazeen comes to Town as an Express with Rumors of 15. French-men landed near Pemaquid, and of a Frenchman of War.

July 12 Bomazeen and his companion before the Council with Serj^t Bean." — *Sewall's Diary*, vol. II., p. 82.

|| "Women," in the series of records in the State Library.

¶ Vol. II., p. 84. This is corroborated by the two following entries in the executive records of the council:—

"Aug. 7, 1703. His Excellency communicated to the Council several Letters just now received from Piscataqua, intimating the discovery of some French Indians, at or near Newichewannock; and proposed to have their advice if any thing were further necessary to be done at present." — *Vol. 3, p. 465*.

"Aug. 11, 1703. His Excellency communicated to the Council a Letter Expressed to him from Blackpoint, intimating that Mr John Croud on the fifth current, being at Wineganse, about Twenty mile from Casco Fort, was informed by Moxis the Sagamore and Bomazeen, that St. Oblin a Frenchman with two Priests and several Indians from Pigwockett and Pennicooke were there and expected a party of Ind^s from Cannada to joyne them, and that they advised him to haste away, for his own Safety." — *Ibid.*, p. 467.

"News comes of the Onset of the Enemy."* On the twelfth "His Excellency communicated to the Council the further Intelligence expressed to him of the insults made by the Indians at Sparwinke and winter harbour on the same day with that done at Wells."†

On the same day and "at night" the tidings came of the attack on Wells, with an estimate that the total loss of the English was probably sixty; that fifteen of their dead had been buried, and that they feared to go out to bury those who fell furthest from the fortifications.‡

These last tidings the Governor communicated to the Council the next morning, together with what reports he had received of the "impressions made" by the French and Indians "on the parts further east, and the report of firings at Casco Bay."§

On the fourteenth "Mr Preble and Lewis Bean two Inhabitants of Yorke, came from thence yesterday, and attended his Excellency in Council, and gave him a relation of the Impression made by the Enemy upon Wells, Winter harbour, Papueduck, and that the Forts at Casco and Saco were insulted, their firing being heard, but knew not the issue; they apprehended there were about fifty Indians appeared at Wells."||

Before the letters were received from Piscataqua informing him of the appearance of "French Indians" near Newichewannock Dudley had already given orders for scouting and marching, to the forces "in those parts," and in the counties of Essex and Middlesex, "which was thought sufficient until further intelligence."¶

Upon the arrival of the first report of the attack on Wells the Governor ordered Lieutenant-Governor Povey, under the escort of four troopers,** "to repair to Piscataqua, and with the advice of the Gentlemen of the Government there, to take care for the improvement of the Forces posted at Wells and Newichewannock & as occasion shall offer for the defence of her Majty's subjects and repelling of the Enemy,"† and a warrant for ten pounds was ordered to be drawn on the treasurer to defray the expenses of himself and his guard on their journey. The Council also "Advised, That the Garrison at Saco and Casco, be not at present reformed by drawing off any Men from thence."‡ On the day following the Governor "intimated, that he had ordered the Levying of One hundred and Fifty soldiers out of the several Regiments of Militia, in the County's of Suffolk, Plymouth, Barnstable and Bristol."††

On the thirteenth, after the report of the attack on Wells had been confirmed, the Governor "dispatch't orders to Colonel Peirce, to order Captain Somersby with one halfe of his Troop with long armes, & Capt Wadleigh with one halfe of his Company of Dragoons forthwith to march to Wells for their releife, and to cause them to be immediately followed with a Foot Company of one hundred Men, under proper Officers, to be drawn out of his Regiment, and also dispatched away the Province Galley to visit & releive Casco Bay and the other Fortifications Eastward."‡‡

The next day he wrote to Colonel Hathorne at Salem and to Colonel Wainwright at Ipswich to confer with the councillors and principal militia officers in their respective towns in order to encourage the enlistment of volunteers within their regiments to serve against the enemy. The names of the volunteers were to be listed.

On the sixteenth the Governor laid before the Council a letter from Captain Turfrey, commander of Fort Mary at Saco, giving an account of an assault by the enemy on that garrison and of their repulse, and of the mischief done by them in the outlying settlements of Saco and Winter Harbor. Thereupon he dispatched letters to the garrisons at Saco, Black Point and Casco, requiring the women and children to be sent off and the men to be retained for service and put under pay. He also wrote to Captain Sonthack of the Province Galley "to sail to Sagadahoc and demand of the French and Indians the prisoners in their hands." On the same day a flag of truce arrived at Boston from Port Royal under which Louis Allain §§ brought letters from Governor Brouillon asking for an exchange of prisoners. The next day this letter was submitted to the Council, together with the draught of the Governor's reply, offering to exchange all prisoners held by the province except the Sieur Baptiste, §§ who was detained as a subject of the queen of England upon accusation of treason and felony. In this letter he took occasion to resent "the late barbaritys acted by some French Officers and two Priests commanding the Salvages upon a number of poor women and children in open settlements, presuming they were under his Commission, and expecting that he command them to restore the Women and Children to their place again." ||||

* Sewall's Diary, vol. II., p. 84. The particulars were thus recorded by the Secretary:—

"An Express from Wells brought Intelligence, that yesterday an attack was made by the French and Indians, upon the out parts of that Town, and that several Families were cut off, but intimated neither the number of the Enemy, nor the particulars of the mischief done there."—*Executive Records of the Council*, vol. 3, p. 468. August 11, 1703.

† *Ibid.*

‡ Sewall's Diary, vol. II., p. 84.

§ Penhallow sums up the story of this onslaught of the enemy as follows:—

"... for within six weeks after, the whole eastern country was in a conflagration, no house standing nor garrison unattacked. August 10th, at nine in the morning, they began their bloody tragedy, being about five hundred Indians of all sorts, with a number of French; who divided themselves into several companies, and made a descent on the several inhabitants from Casco to Wells, at one and the same time, sparing none of every age or sex."—*Indian Wars*, p. 18. See, further, note to chapter 69, *post*.

|| *Executive Records of the Council*, vol. 3, p. 470.

¶ *Ibid.*, p. 465.

** These "troopers" were "Elisha Doubledecy, Thomas Cutler, Sent and Junr and Daniel Evermore," and for their service they received twenty shillings each.—*Ibid.*, p. 479.

†† *Ibid.*, p. 469.

‡‡ See note to private act, number nineteen.

§§ For the date of Baptiste's capture see note to resolves, 1697, chapter 50; and for the final negotiations for his release see private act, number nineteen, and also resolves, 1705-6, chapters 13, 15, 38 and 51, and notes.

|||| *Executive Records of the Council*, vol. 3, p. 472.

On the eighteenth the Council determined on a declaration of war by the following vote:—

"Advised. That His Excellency do emit a Declaration against the Pennicooke and Eastern Indians, setting forth their perfidy, treachery, barbarity, murders, and rapines committed upon Her Majesty's good Subjects, Declaring them to be Rebels and Enemies against Her Majesty her Crown and Dignity, to be out of her Majesty's Protection, and to require all Her Majesty's good subjects to Treat them as such, and to do and execute all acts of hostility upon them, and also to restrain the neighbouring Friend Indians, to their respective plantations and places assigned to them." — *Executive Records of the Council*, vol. 3, p. 473.

On the nineteenth the Commissary-General was ordered to supply subsistence for the forces raised to prosecute the war, "and that the Stores and Magazine for the Eastern parts be lodged at Mr Peperels Garrison in Kittery."*

At the same time Colonel Hobby (afterwards Sir Charles Hobby) with "ten of the troop of guards" was dispatched to Hingham and Weymouth with orders "to make a draught of Twenty Men out of each of the sd Towns,"* to make good a deficiency caused by the default of Colonel Ephraim Hunt to levy the soldiers "ordered from his regiment."

While these proceedings were taking place near the seat of government news was received of the engagement of the enemy at Casco Bay, as appears by the following entry:—

"Aug. 20, 1703. His Excellency communicated to the Council a letter Expressed to him from Major March, Commander of her Majesty's Fort at Casco Bay and another from Captⁿ Southack Commander of the Province Galley, now there, containing a Journal of the Insult made by the French and Indians for several days together upon that Fort, and of the Gallies engaging them; Captⁿ Southack withal intimating that he durst not come away until some assistance came." — *Ibid.*, p. 475.

Upon this the following action was taken:—

"His Excellency Express an Order to Captⁿ James Gooch at Plymouth, and the Commanding Officer of the Souldiers embarked on his sloop, to sayle directly to Casco Bay, his former order notwithstanding." — *Ibid.*

The next day the Commissary-General was ordered to provide, for the forces raised, five hundred each of hatchets, powder-horns, belts and "snapsacks," and five hundred pairs of large shoes and stockings, and to lodge the same with the several commissaries, to be distributed among the soldiers as occasion should require. And at the same time he informed the Council that he would order fifty firearms to be "prepared" to be sent to each of the garrisons at Kittery and Casco Bay to be temporarily exchanged for defective arms until the latter were put in repair and returned to the soldiers in service. He also promised to "give order to fit up the house on Fort Hill in Boston, to receive and lodge the publick stores of Armes and ammunition."†

Two days later a warrant was ordered by the Council "to impress six or eight Shoe Makers, to be Employed by direction of Mr Joseph Bridgham forthwith to make Shoes for the supply of the Forces raised for Her Majesty's service."‡

On the twenty-sixth arrangements for the exchange of prisoners as asked for by Brouillon having been concluded the Governor informed the Council that "he had ordered the taking up of a Sloop Phillip Pendexter M^r to send to Port Royal with M^r Allen the Messenger, that came from thence about the Exchange of Prisoners, and therein to send the French Prisoners that are here, and to bring home ours that are there, and proposed she should be victualled for fourteen Men, by the space of Forty days, and that he would instruct the Master to endeavour to speak with Captⁿ Southack or Major March by the way; and to have the assistance of Mr Allin for the recovery of our Captives, from the Indians."§

From the first, Dudley seems to have regarded the demonstrations of the enemy as promising a contest of considerable magnitude and calling for the zealous coöperation of the other New-England colonies.

In a letter dated the thirty-first of July he informed Governor Winthrop of Connecticut that intelligence received by him from Quebec made him "almost certayn of a marching party for that river, another for Merimack River, another for Piscataq, about fifty each. If our people keep upon their guard, they will be weary in a short time, if our Indians keep steady, which is most probable they will do."||

On the twelfth of August, before these last tidings confirming the onslaught at Wells had reached Boston, he communicated to the Council a letter he had "written to the Gov^r and Council of the Colony of Rhode Island, for the assistance of a Foot Company of Fifty Men upon this occasion."¶

On the twenty-third he communicated to the Council the answer he had received to his letter to the authorities of Rhode Island, in which Governor Cranston informed him "that they could not spare any" men for the service against the enemy.

The demand upon Rhode Island seems not to have been further pressed. Dudley appealed to Connecticut (evidently with greater hopes of success) for a company of sixty men to join the eastern forces. His first letter for this reinforcement is dated the sixteenth of August, in which he declared that after peaceful relations with the Indians, preserved with care and cost for one year, "about two hundred of them with twenty French men the last weeke fell in upon Wells and the small settlements eastward, and have burnt

* *Executive Records of the Council*, vol. 3, p. 474.

† *Ibid.*, p. 476.

‡ *Ibid.*, p. 477.

§ *Ibid.*, p. 478.

|| For the correspondence between Dudley and Winthrop relating to the joint action of the colonies against the common enemy, the public is indebted to the collections of the Massachusetts Historical Society, vol. III., sixth series, p. 137, *et seq.* This correspondence will be referred to hereafter as "Winthrop Papers."

¶ *Executive Records of the Council*, vol. 3, p. 469.

1 *Ibid.*, p. 472.

and destroyed what they found distant from the garrisons, and have assaulted the forts at Saco, Blackpoint and Casco, but they are yet safe. And I am now making up the forces already out to five hundred, that we may be able to march and keep the field, and we must be content to make it a business now to follow them. While we are thus in a hurry, your Government, at least the greatest part of it, are in peace and very capable to give the Queen's subjects your bretheren their assistance," and, he continued, "If at present you would give us one good company of sixty men with officers fit for the service, I would send a good sloop to take them up in any part of your Government, and take care for their subsistence and treat them as I ought. And if your Indians would any of them be serviceable, I should be glad they were put under proper officers. Also I pray you to let me have your answer to this as soon as may be."*

Winthrop replied on the nineteenth† expressing his sorrow for the mischief done by the enemy,—a "loss not to be made up by the destruction of the whole race of those barbarous and false villains," and declaring that, "since the best and most generous indulgence lavisht upon them would not oblige them to a certain freindship, there remains noe security for us but utterly to destroy them. I have appointed the Council to meete me at Say-Brook next Tuesday and shall lay before them your last letter with all the insinuations I can for their assistance, wch neede not be doubted, as far as they are able in the absence of the Genl Assembly."

He also reported that he had ordered "the Major of the County of Hartford to post away 50 well fitted dragoones to Hatfield, under the comand of Capt Cooke, a good officer, who presently marched with his company and quartered in the fields of Hadly the next night. I expect hourly an acct from him of his proceeding, and what has hapned of moment shall be posted to you," and added, "I wish success to your armes against that barbarous people and will doe all I can to preserve your plantations up the river."

This was followed by another letter‡ from Winthrop dated Saybrook, the twenty-third of August, communicating the opinion of the Council of Connecticut that the preparations they were making for defence of the western frontier would be all they could do for the present, but promising to prepare "the Indians in this Government" "with a fitting number of English" to march to the eastward if occasion should so require and to recommend Dudley's suggestion to the next General Assembly, adding that "the dragoons" dispatched to Hatfield had returned without discovering any of the enemy.

Winthrop also issued a proclamation§ denouncing the Pennecook and Eastern Indians as enemies to the queen, declaring them to be out of her protection and worthy to be treated as outlaws, forbidding all inhabitants to hold intercourse with them, and enjoining all good subjects "to doe and execute all acts of hostilitie upon them" and to arrest all stranger Indians found within the colony.

On the thirtieth of August Dudley renewed his application to Connecticut for aid, representing that he had "now 900 men, besides officers, in pay and yet cannot march above half that number, our forts and garrisons are so many and so far extended beyond Merrimack River in the province of Mayn, that the other half can but well keep the inhabitants steady from leaving their posts; and the charge of this number of men with incidents cannot amount to less then thirty six thousand pound per annum, and no gentleman of her Majestyes Council here thinks it yet sufficient, but that our marching parties must be more, the enemy having to our best observation appeared not short of 500 men," and continuing his appeal thus: "Sr, I pray you to let it be duly considered, and I hope your Council and Assembly will remember that the interest is in common between us all, and the French will not distinguish, but intend the ruine of the English interest every where, which God will prevent, and the next humane means is our joynr resolution to destroy these barbarous miscreants that no methods of justice or freindship can oblige. I pray you to think that my expectation of one company this way is a very little quota. I thank your care in Hampshire and desire it may be continued, because I cannot reasonably expect they will be quiet."||

To this letter Winthrop replied from New London on the second of September, expressing satisfaction that the enemy had inflicted so little injury on the frontiers, and his sense of the charge of securing the forts and garrisons and maintaining the forces acting against the enemy if "some way be not projected to shorten the work." With regard to the prospect of successfully pursuing the enemy "through the hideous & unknowne passages" of the wilderness, and of the recovery of "the poor distressed captives" (the proposed methods of accomplishing which he had not heard), his words were not encouraging. The letter concludes as follows:—

"I make noe doubt that our gentlemen, who have a just sympathy with you in this publick calamety, will concur with you as they are able in any proposall that may seeme probable, to subdue for ever those barbarous & inhumaine villains. I have appointed a scout of 20 English & 12 Indians, who are now out, to visit Woodstock & from thence to range downe to Connecticut River against Windsor, where their store of provision lyes, and they are to continue that service till farther order, & 60 dragoones be ready to assist your upper plantations, & it will be necessary that I have notice of your motion of your enemy as often as may be. I wish a continued course of succes to all your indevors against the enemy, and am Sr,

Your very humble servt

J: WINTHROP."—Win-

throp Papers, part V., p. 151.

Before the date of this letter the Assembly of Massachusetts had convened in its second session, opened by Dudley with a speech in which he addressed the representatives, as follows:—

"Sept. 1, 1703. Gentlemen, When I prorogued this Assembly, I did not intend to have troubled you until the ordinary Time of your Session in October, But the sudden Eruption

* Winthrop Papers, part V., p. 159.

† *Ibid.*, p. 145.

‡ *Ibid.*, p. 148.

§ *Ibid.*, p. 146.

|| *Ibid.*, p. 150.

of the Eastern Indians has made it necessary for me to see you & to let you know the present State of the Province & yr Affairs. I am not sorry for the Pains & Cost I have taken in the two last Interviews with those Indians, if possible to have kept them in Obedience, Notwithstanding the Infraction they have now made upon us, Because I am well assured that her Majesty will be satisfied that We are not the Aggressors, But that all this Breach of Faith is on their Part by the Instigation of the French Missionarys amongst them, who attended them in the late Mischiefs; And I hope your selves & all her Majesties good Subjects will with the better Conrage & Freedom support the Service & Charge of the War, when no possible Methods of Justice & Friendship can oblige them to Obedience, which they have so often promised & repeated.

I am not sensible to have neglected one Hour in the Service for the Security of the Frontiers, notwithstanding their sudden & secret Falling upon the whole Province of Main at once at the Distance of Fifty Miles; The Garrisons at Wells, Saco, Black Point & Casco were so well appointed as to hold their own, And the two last were relieved in four Days, Time; And I have now upwards of four Hundred Men in the Province of Main, Wh I doubt must be increased, We have brought up the present Forces to the Number of nine Hundred, The List whereof shall be laid before you.

I am very sensible what great Charge this must necessarily bring upon the Province, but I hope none of her Majes Subjects will doubt of our Duty to support our Frontiers, or of our Prudence to keep the War as far off as We can.

I have earnestly moved her Majes Governm^{ts} of Connecticut & Rhode Island for a Quota of Men from thence, which yet I doubt of, But that must not abate, but be added to what is already a foot if I can obtain it. . . . — *Council Records*, vol. VII., p. 429.

On the second day of the session a message was sent from the representatives "to return his Excy, the Thanks of the House for his early Care of the Frontiers upon the Infraction made by the Indians, And to desire that His Excy. would please forthwith to raise such further Force as with those now in the Service may form a suitable Army to pursue them to their Head Quarters if it may be." * On the same day the vote which constitutes this chapter was passed by the Council and sent to the House of Representatives for concurrence, and on the third of September it was concurred in. On the sixth, Dudley again applied to Governor Winthrop for aid, and ordered the Secretary of the province to enclose a copy of the vote which is incorporated in this chapter. Dudley's letter was as follows:—

"Boston, Sept. 6. 1703.

Sr,—The affayr of the war is so pressing that I have now eleven hundred men in pay, and hope speedily to have halfe that number in a marching party to the head quarters of the enemy. I have seen it also necessary to meet the General Assembly of this Province in an extraordinary session to provide for so great a charge, who have very freely agreed the necessity of all that is done, and have observed to me the neighbourhood of your government and the justice of your being equally concerned in the war, and earnestly moved me in the most pressing manner to put you upon it, for that is the common interest. I therefore desire you will again consider the matter and perswade your Council or Assembly of the respect they owe to their bretheren of the English nation in these provinces, to afford them such assistance as will be honourable for your Government and agreeable to the just expectation of her Most Gracious Majesty, who is most succesfully engaged in a vigorous war against the common enemy of the liberty of Europe and of the Protestant religion. Which I shall represent to her Majesty, and will be to the honour of your Government. I have directed the Secretary to enclose a copy of the vote of the Council and Assembly of this Province, wherein you will see their expectation from you, and which has moved me again to urge you in this matter.

I am, Sr, your humble Servant,

J. DUDLEY." — *Win-*

throp Papers, part V., p. 152.

To this Governor Winthrop made the following reply:—

"Sr,—Your Excellency's letter of the 6th instant I received by the post last night and will lay it before the Gen^l Assembly with all the aduantage I can for yor service, who onely (as you know) have power to raise men and send them out of the Govern^t. I have enclosed a letter from the Council of Warr at Hartford and one from Coll: Partridg & Major Pynchon, that you may know the state of yor upper Plantations. Being much indisposed to day, I cannot otherwise give you acct of it & desire they may be returned to me with a forner I sent to you from Coll: Partridg.

I am Sr, yor very humble ser^t

J: W.

New London, Sept 9th 1703." — *Ibid.*, p. 153.

The general assembly of Connecticut having convened on the fourteenth of October, Dudley again renewed his application in the following letter:—

"To the Honorable John Winthrop Esq^r, Governour of her Majestyes Colony of Connecticut.

Boston, 21 October, 1703.

Sr,—I wish you a good meeting with your Assembly. I hope they will be disposed to shew their respect to these provinces at this time, I believe truly I am to day at 90th a day exence, and if I broke here you will stand but a little while. My forces are now abroad; the next march must be about Christmass upon the ice, when I hope you will give us a good foot company. I pray you also to send down the Quabaug Indians your scout brought in; Nonequaban is a dependant here and I understand they are his family. Sr I wish you health, and am Sr

Your very humble ser^t,

J. DUDLEY." — *Ibid.*, p. 159.

The following extract shows the action taken by the assembly of Connecticut:—

[October, 1703.] "Whereas his Excellencie Colon^l Dudley, Capt. Gen^l and Comand^r in Chief of the Province of the Massachusetts Bay, hath signified to the Govern^rs Hon^{rs} that the Gen^l Assembly of the said Province doth earnestly desire one hundred men well appointed, from this Colonie to march to the eastward, to assist them in the warre against the eastern Indians, —

Voted that the Hon^{bl} the Govern^r be desired to informe his Excellencie, that the season of the year is such, that they cannot judge it practicable to send their men into such a remote part of the countrey at present, but as in this time of warre wherein they are enforced to be at great expences for the securitie of their frontiers, they have notwithstanding been at considerable charge for the assistance and defence of their plantations in the countie of Hampshire, so they shall be ready at all times to afford them further assistance as they are capable." — *Colonial Records of Connecticut, 1689-1706, p. 444.*

Winthrop communicated this action of the assembly in the following letter, by which it appears that the foregoing vote was passed before Dudley's letter had come to Winthrop's hands:—

"New-London, Nov: 4th 1703.

Sr, — I recd. your letter of Oct: 21st at Say-Brook ferry, in my returne from the Court at New-Haven, but could not then salute you, nor assure your Excellency, as I was desired by our Gen^l Assembly, of their readines to be concerned in the present war with the Eastern Indians, having already made declaration against them as traytors & rebels to her Majesty. I must confes I am at a great loss for the best way to make our assistance succesfull to your service. Many (of good conduct) are of opinion that your plantations of the County of Hampshire will constantly be exposed to danger during the war, and that a good Company must be allwaies ready to assist them. And if the enemy (pressed by your forces) should be dislodged, they would be necessited to devide into skulking parties and may then aptly fall upon those plantations as neere & new places for their mischeif, and soe may require our whole strength to secure them and our owne frontiers, and to kepe out parties of scout to range above the plantations. And since wee are not able to kepe out marching parties to assist in every quarter, the Gen^l Assembly seeme to conclude at present that they shall doe her Majesty more service by securing, as they are able, the County of Hampshire (weh has allwaies fallen to their post in all tymes of difficulty) than to joyn yor forces eastward this winter with one company, as yor Excellency has desired. This is the substance of what I am desired to communicate to your Excellency by our Assembly, relateing to their present assistance. I wish you health & hapines and am sincerely

Your very humble serv^t,

J: WINTHROP." — *Win-*

throp Papers, part V., p. 159.

The above letters were followed by other correspondence between the two governors relative to combining their forces against the enemy on the eastern frontier. Dudley did not communicate this last letter to the Legislature until the fifteenth* of November, twenty days after the beginning of the third session of the General Court.

Little less than a month later, Dudley had the satisfaction of informing the Council "that offer had been made him from Connecticut, of marching the Friend Mohegan Indians, under the Conduct of proper English Officers into the Eastern parts, and to live there all the summer, upon the encouragement proposed by the Gen^l Assembly and being allowed subsistence." Whereupon it was, "Advised. That they may be improved accordingly." †

What further reply, if any, the authorities of Rhode Island made to the Governor's application in the name of the General Court has not been discovered.

While Dudley and Winthrop were awaiting the assembling of the Connecticut Legislature, the Legislatre of Massachusetts passed chapters 6 and 7 of the acts of this year, — the former "An Act to encourage the prosecution of the Indian enemy and rebels," on the eighth, and the latter "An Act relating to the forces that are or shall be employed on her majesty's service within this province," on the ninth of September.

Chap. 54. This chapter is from council records, vol. VII., p. 433. It has not been found in the archives.

The petition mentioned in this chapter has not been discovered.

Chap. 55. This chapter is from council records, vol. VII., p. 433. It has not been found in the archives.

Chap. 56. This chapter is from council records, vol. VII., p. 434. It has not been found in the archives.

Chap. 57. This chapter is from council records, vol. VII., p. 434. It has not been found in the archives.

See the petition of Duncan Campbell in note to resolves, 1696-7, chapter 13, which resolve was the last grant before this year for the support of the post-office. For other legislative proceedings relating to the post-office see chapter 30, *ante*, and note.

Chap. 58. This chapter is from council records, vol. VIII., p. 2. It has not been found in the archives.

The petitions upon which the order constituting this chapter was passed having been lost from the Secretary's office, and important papers relating to the subject of this order

* Council Records, vol. VIII., p. 8.

† Executive Records of the Council, vol. 3, p. 500.

having disappeared from the files of the town clerk of Boston, it has not been found practicable to ascertain positively the reasons which induced the petitioners to ask for the closing of the drawbridge, nor the precise grounds upon which the remonstrants claimed the right to a draw. These reasons, however, may be inferred from the motives which induced previous similar efforts, as shown in Boston Town Records. By these records it appears that on the 31st of July, 1643, at a meeting of the selectmen, the monopoly of erecting public corn mills in Boston was granted to Henry Simons, George Burden, John Button, John Hill "and their partners," upon condition that, within three years from the date of the grant, they erect, to be forever maintained, one or more corn mills at or near an outlet of the artificial tide-mill pond formed by a causeway or dam on the western side. As an encouragement to this undertaking "the partners" were granted three hundred acres of the town's land in Braintree, and the selectmen promised to use their efforts to secure voluntary assistance in case of any emergency requiring the employment of a large force in making the necessary "bankes or trenches, etc." The causeway (which is mentioned in the note to chapter 47, *ante*) was to be provided with a gate ten feet wide for the entrance of boats at flood-tide; and the whole cove thus enclosed was granted to the partners in fee simple.

In case the partners should choose to open another sluice for mills on the eastern side of the pond, they were granted in fee a strip of marsh sixty feet wide extending from the pond to the harbor side, and the following is the language of the grant conferring the right to dig the necessary sluice-way or watercourse through the marsh and across the highways:—

"Sixtly. They shall have Liberty to Digge one or more Trenches in the high wayes or wast grounds, so as they make and maintayne sufficient, passable, and safe wayes over the same for horse and Cart." — *Boston Town Records, 1634-60, p. 75.*

The conditions upon which the grant was made appear to have been duly complied with, and a trench was dug to connect the mill pond with a natural creek in the marsh on the eastern side. This trench crossed the line of the present Hanover and North streets and was used not only as a sluice-way but for the passage of vessels for the accommodation of the mill owners and their customers. At North Street it was spanned by a bridge, which, it seems, was originally built with a draw of one leaf, and was so accepted by the town authorities. But in 1653 the mill proprietors upon their petition were permitted to substitute two leaves. It was repaired in 1655, and it having fallen October 27, 1659, under the weight of a mass of people returning together from the scene of the execution of the Quakers, on Boston Common, it was rebuilt that or the next year.

In 1672, the draw being out of repair and the bridge dangerous to passengers on this account, the selectmen ordered all vessels above it to move out, and that the leaves be lowered to a level and locked, "and a plank spiked down," or that some other measure be adopted to prevent accident in using the draw.

In 1686, during the presidency of Dudley, the Court of Pleas and Sessions of the Peace threatened to transfer the title of the bridge to the town of Boston unless the proprietors should cause it to be properly and speedily repaired. This appears by the following copy of the record of that Court:—

"At his Majesty's Court of Pleas and Sessions of the Peace holden in Boston for Suffolk on ye 27th of July 1686 Anno RRis Jacobi Angl^e 34th Sec^udi Secundo.—

On Thursday, 2^d Septemb^r the Court met on adjournment:

Present.

William Stoughton Esqr. Judge	
Edw ^d Randolph Esqr.	} of the Councill.
John Usher Esqr.	
John Richards Esqr.	} Assistants.
Simon Lynd Esq;	

The Grand jury for Our Sov^r L^d the King Presented upon their Oathes that the Bridge in Boston over the mill-creek commonly knowne by the name of the draw Bridge was defective and very dangerous which appearing to the Court they Ordered That the proprietors of the draw Bridge or those that are Concerned in it and have benefit by the Same shall repair it within five weekes time and make it Sufficient otherwise it is to fall into the hands of the Towne of Boston aforesd To be by them Sufficiently repaired." — *County Court, Suffolk, 1680-1692, pp. 295, 308 and 309.*

It is probable that the proprietors concluded to rebuild the bridge according to the following order of the selectmen, since for several years afterwards no complaint or order for repairs has been found:—

"1686, Aug^t 21th. At a meeting of Dr Elisha Cooke & Elisha Hutchinson Esq^r. Capt. Tyme. Prout, Capt John Fairweather. Mr. Edward Willis, Deacon Henry Allen, John Joyliffe & Capt Daniell Turill

It is Ordered that the Drawe Bridge be forth with rebuilt by James Russell Esq. & others concerned therein, that are to maintaine it. And that the vyper pte of it be not raised at the posts any higher then the hottome of the groundsell of John Batemans dwelling house, and it be full 11 foote broad betweene post and post." — *Boston Town Records, 1660-1701, p. 188.*

Between the above date and the passage of the order which constitutes this chapter, the town authorities took action regarding the alteration and repair of the drawbridge.

The following letter from Governor Dudley to the selectmen of Boston, which some years ago was transferred from the office of the town clerk of Boston to the collection of manuscripts of the late Professor Lellingwell, indicates the date of the beginning of the final movement to have the drawbridge superseded by a permanent structure:—

Drawbridge
present!

Gentlemen

"Boston. 30. July. 1703.

About ten weeks since I received a petition from severall Inhabitants of the Town of Boston praying that the drawbridge might not be rebuilt again in form of a Drawbridge being in one of the principall streets of the Town and very dangerous for passengers, and being at that time fallen down, whereupon I gave a warrant to m^r Sherriff Dyer to prevent any thing to be done therein untill the matter might be heard before my self in Council and to give notice accordingly to the persons Concerned therein since which I have had no application made to me thereabout

I Desire you therefore that you will take order to have that passage over the Creek brought to its Due breadth and Direct that the bridge be repayrd and settled firm so that there be no further danger nor Complaint thereon and do not doubt of your doing your duty therein for the benefit and security of the Inhabitants of Boston and all other the Queens subjects who have Constant use of the same

I am Gentlemen your humble servant

J DUDLEY

select men of Boston." — *Leffingwell collection of manuscripts.**

By an entry in the executive records of the council† under date of August 11, 1703, it appears that Mr. David Jenner and Captain John Ballantine "on behalfe of themselves and severall of the Neighbourhood" made a "representation" to the Council upon which an order was passed "That there be a hearing of that matter the next Council day, and that the Selectmen of Boston be notified thereof, and then to attend."

The next entry that has been discovered is the order which constitutes this chapter. The record, under date of the third of November, shows that, at the time appointed, "the petitions . . . were adjourned to be heard to Morrow;"‡ and, accordingly, on the fourth, the Governor sent a message summoning the Speaker and the representatives to attend the hearing before the whole court, in the council chamber. After the hearing the representatives returned to their chamber, and on the next day the Council passed and sent to them for concurrence the following resolve:—

"In Council. Novemb^r 5th 1703. —

Upon Consideration of the Case, referring to the great draw-bridge over the Mill-Cricke in Boston, heard yesterday before both Houses. —

Resolved,

That it is not reasonable to continue a draw-bridge there.

That it is not possible to make the passage safe for the Inhabitants, or others, & for going over with Carts or Horses; without a settled & fixed Bridge, which is therefore ordered to be kept close until further order, And the sides of the said Bridge, and the Corners of the street at each end thereof to be forthwith enclosed and secured

And whereas Captⁿ Ballentine m^r Jenner and others have alleaged before this Court, That they have a just title to a drawbridge over that part of the s^d Cricke and that the shutting of it up will be greatly to their damage. —

Resolved,

That John Clarke, Thomas Palmer and Edw^d Lyde Esq^s m^r Simeon Stoddard, m^r Thomas Bannister, m^r Richard Draper and m^r Edward Thomas, or any four of them, whereof the s^d John Clarke, Thomas Palmer or Edward Lyde to be one, Be and are appointed a Committee of this Court to Inquire into, hear and report the Titles of the severall Claimers, and the just damages that will accrue to the said Ballentine and others by fixing of the said Bridge, that just satisfaction may be made them. — As also to consider and Report the best form for laying and fixing of the said Bridge, to accomodate Passengers, and the passing of Boats and Lighters without masts, under the same for the benefit of the Inhabitants above, to transport wood and Goods through the same The said Committee or a Quorn of them to appoint the time and place of their meeting, and make the same publick. And to Report their doings on the whole affair to the General Assembly at their next session." — *Mass. Archives, vol. 121, p. 118.*

With this resolve all the papers were transmitted. On the sixth, the representatives voted not to concur in the foregoing resolve, which vote was sent to the Council and was recorded by the Secretary on the eighth.

The subject came up again for consideration in the fifth session, on the petition of severall of the freeholders and inhabitants of Boston representing that the drawbridge was a common nuisance, and praying "that it may be made a fixed bridge." The following is the record of the proceedings upon this petition:—

"April. 19th 1704. In Council.

Upon the renewed Application of a considerable number of the freeholders and Inhabitants of Boston, Representing the Drawbridge over the mill Creeke in the said Town, to be a common nuisance, and very prejudicial to the Trade of that part of the Town. Praying that it may no longer be used to draw up, but may be made a fixt bridge. —

Ordered That John Clarke Thomas Palmer Edward Lyde & Sam^l Lynde Esq^s m^r Simeon Stoddard, m^r Thomas Bannister & m^r Richard Draper or any four of them; whereof the s^d John Clarke, Thomas Palmer, Edward Lyde or Samuel Lynde to be one, Be and are hereby appointed a Committee to Inquire into, hear and report the Titles of the severall Claim^{rs} to a right or privilege in the said Bridge and the just damages that will accrue to them or any of them by fixing of the said Bridge, The said Committee or a Quorum of them as aforesaid to appoint the time and place for their meeting; giving publick notice thereof And to Report their doings therein to the next General Assembly,

* Professor Leffingwell's collection has been sold at auction since his decease. The number of the above paper in the sale-catalogue was 3,717.

† Vol. 3, p. 467.

‡ Council Records, vol. VIII., p. 4.

That such proceeding may be had and Direction given therein as the Court shall thinke fit. —

Sent down for Concurrence.

IS^d ADDINGTON Secry

In the House of Representatives Aprl 20th 1704. Read & not Concurr'd.

JAM^s CONVERSE Speaker." — *Ibid.*, p. 120.

Still another petition was presented to the next General Court of which (and of the proceedings thereon) the only record extant is as follows: —

"June 21, 1701. Upon Reading a new Petition referring to the Draw Bridge over the Mill Creek in Boston, That the said Bridge be not rebuilt in that Form;

Ordered that there be no Proceeding in the Building of the said Bridge until further Order. — W^{ch} Order being sent down to the Representatives for their Concurrence, was return'd not Agreed to." — *Council Records*, vol. VIII., p. 59.

On the eighth of August, the Governor and Council passed the following order: —

"Ordered. That Elisha Hutchinson, John Foster and John Walley Esq^s be a Committee, to whom the persons claiming propriety in the great draw Bridge in Boston may apply to view and advise about the projection for Building of a new Bridge, how it may be contrived and done, with the greatest ease & safety, for the passage of Travellers and carriages; the Committee to Report the same to the Board." — *Executive Records of the Council*, vol. 4, p. 55.

From this time forth the subject of removing the draw, or widening or rebuilding the bridge, continued to be agitated by the town, in the Assembly, or in the Court of Sessions; but it was not made a fixed bridge until 1712.

Chap. 59. This chapter is from council records, vol. VIII., p. 3, and archives, vol. 62, p. 445.

The following is the petition mentioned in the preamble to this chapter: —

"To his Excellency Joseph Dudley Esq^r Captain General and Governour in chief, the Hon^{ble} Council and Representatives of her Maty^s Province of the Massachusetts Bay in General court Assembled.

The Petition of David Jeffries of Boston Merchant on behalfe of himselfe, and other the Owners of the Ship Byfrouns, Thomas Holland commander. —

Sheweth,

That the said Ship being bound from the Island of Madera — to the Port of Boston, having on board a cargo of Wine, to the Quantity of about Fifty five Pipes, was constrained by contrary Winds to put in to Piscataqua, where soon after her Arrival, there arose a violent Storm, whereby the said Ship was cast on Shoar and fill'd with Water, and though with much difficulty and charge the s^d Wines were gotten out, yet very great loss has hapned thereto, by Leakage, chilling, and mixture with the Salt Water. Besides the damage befallen the Ship, which lyes full of Water to this time, and not gotten up. —

Wherefore your Petitioner humbly prays, That on consideration of the very great loss and damage Occasioned to the Owners of the said Ship by means as afores^d Y^r Excy & hon^r would be pleased to remit and Abate to them, the Dutys of Impost payable for the s^d Wines. As in like case you have been favourably pleased to do for some others. —

And your Petition^r as in duty bound Shall forever pray &c. —

Boston Octobr 27th 1703.

DAVID JEFFRIES." — *Mass.*

Archives, vol. 62, p. 444.

This petition was read, first, in the Council, on the twenty-eighth of October and sent to the House for concurrence, where, on the same day, it was read twice and the order which constitutes this chapter was passed and sent up for concurrence. On the thirtieth it was concurred in and consented to by the Governor.

Chap. 61. This chapter is from archives, vol. 70, p. 648. It is recorded in council records, vol. VIII., p. 4.

The services for which Brattle was required by the allowance granted in this chapter were continued under chapter 40, *ante*, and are described in the following petition: —

"To his Excellcy Joseph Dudley Esq^r Captain Generall & Govern^r in Chief in & over Her Maty^s province of y^e Massachusetts Bay in New England, & to y^e Hon^{ble} Council & Representatives now Convened in Generall Assembly in Boston

The petition of Tho-Brattle of s^d Boston

Most humbly sheweth. That whereas y^r petition^r was by his Exceley agreeable to y^e advice of y^e Generall Assembly desired & directed to continue to undertake y^e care & service of procuring materials of brick, lime, stone, timber & other necessaries, with Workmen & Labour^r for y^e carrying on & finishing y^e Fortifications on Castle Island, as Col^l Romer her Maj^{ty} Engineer should advise to be prepared & got in readiness for that purpose; & Whereas y^r petition^r has diligently attended s^d service for y^e space of five months, devoting his whole time thereunto, & faithfully discharged y^e trust reposed in him in every respect, & would gladly have continued in s^d service till s^d Fortifications were wholly finished, could y^r petition^r have borne any longer with y^e s^d Römers ill nature, or ben protected from his unreasonable usurpations & abuses —

Y^r petition^r therefore dos humbly pray y^e Hon^{ble} Assembly will be pleased as heretofore to take his said service, w^{ch} has ben more difficult than in y^e two former yeares, into y^r present Consideration, & to order him due payment & satisfaction for y^e same, proportionable to y^e Extraordinary Care & pains he has taken therein.

And y^r petition^r shall ever pray &c.

Boston 6th 7^{ber}. 1703.

THO. BRATTLE." — *Mass.*

Archives, vol. 70, p. 647.

This petition was presented at the previous session and was read in the House on the seventh of September, and again on the twenty-eighth of October. On the first of Novem-

ber the resolve which constitutes this chapter was passed and sent to the Council for concurrence. On the next day it was concurred in and consented to by the Governor.

The order in Council* for the payment of this allowance was passed December 13, 1703, and the province treasurer's account† shows that it was duly paid.

Chap. 63. This chapter is from archives, vol. 40, p. 770. It is recorded in council records, vol. VIII., p. 5.

By chapter 8 of the resolves of 1702-3 the hearing on the petition of Gibson against Gove was referred to the first session of the General Court this year. By chapter 3, *supra*, it was again continued to the second session, and still further postponed by the general order which constitutes chapter 56. Since no new petition has been discovered, the inference is that Gibson's petition, which appears in the note to 1702, chapter 48, was kept alive and considered with the later petition referring to the controversy, which, being merely subsidiary, was not formally acted upon. The following extract from the council records shows the proceedings in the case at this session:—

"Nov. 3, 1703. This Day being appointed for the Hearing of several Petitions continued from the last Session, His Excy sent a Message to the Representatives to acquaint Mr Speaker & the House, that he was in Council, ready to proceed to the said Hearing, & to desire them to come up to the Council Chamber—Mr Speaker & the House being come up, Samuel Gibson of Cambridge was heard upon his Petition, complaining of a Mistrial in a Suit commenced against John Gove of Cambridge for a Trespass, first brought before Joseph Lynde Esqr Justice of the Peace, & removed by Appeal to the Inferiour Court of Common Pleas within the County of Middlesex in the Year 1694, 5."—*Vol. VIII., p. 4.*

On the day following the hearing the Council passed the order which constitutes this chapter and sent it to the House for concurrence. The representatives voted their concurrence on the fifth, and on the same day the Governor signed it.

The subsequent proceedings at law are shown in the following extracts from the records of the Inferior Court of Common Pleas and of the Superior Court of Judicature:—

"Midd^x ss// Charlestowne March: 14: 1703/4: At the Inferior Court of Common Pleas Then and there held by her Majesties Justices for the County of Midd^x—

	Then present	
	Ja: Russell Esqr	} Justices—
	Jno Phillips Esqr	
	Joseph Lynde Esqr	
	Jon ^a Tyng Esqr	
Sam ^l Gibson of Cambr: Glover plt		} Whereas the Great and Generall Court for her Majesties Province of y ^e Massachusetts Bay Novembr 4 th : 1703. Upon Consideracon of y ^e petition of Sam ^l Gibson of Cambridge,
John Gove of Cambridge Turn ^r Defdt		
Continued from x ^{br} Court last by agreement of y ^e plt & Defend ^t		

Complaining of y^e undue proceeding in a suit Commenced against him in the year 1694 before Joseph Lynde Esqr Justice of the peace, by John Gove of the said Town of Cambridge for Trespass, And removed by appeal, unto the Inferiour Court of Common Pleas within y^e County of Midd^x. There haueing been no further hearing, Then as to y^e plea made by y^e Defend^t for abatement; Ordered that there be a full hearing of the said Cause, upon the merits thereof, at the next Inferiour of Common Pleas within y^e County of Midd^x, and the said Court thereby being directed and Impowred To receive and hear the said Cause, and to Do therein that which to Justice pertaineth according to Law said Gibson to Cause sd Gove to be summoned with a summons from the Clerks office of the said Court fifteen Dayes, before the Courts sitting requiring him to appear. It being upon a Plea of Trespasse v^{rs}ss said Gibson by Gove Commenced for Cutting and Carrying four Trees from a Wood lott of Jno Gove in Cambridge neer unto Whittemores farme bounded West by a highway leading from Menotomy Houses to Watertowne, and was sometime y^e Wood lott of Mr Richard Chamnee Deed, which Trees made neer a Cart Load, for w^{ch} damage made and Done on sd Wood Lott on y^e 22th Day of o^r January 94/5: or neer about y^e time, the said Gove Claiming forty shillings in money to be paid him by said Gibson according to y^e Province Law made for y^e preventing of Damage in wood and Timber &c. said Gibson haueing no leaue from any p^{son} or p^{sons} owning the Land on w^{ch} said four Trees did grow, as p^r Attachment on file Dated March y^e 8th 94/5: In p^rsence hereof The p^{ties} appeared, sd Jno Gove appearing by his allowed Attorney m^r Edmund Goffe pleading an abatement, The Court over ruled to hearing, said Gones pleas in abatement on file being saved, The Attachment wth y^e said Sam^l Gibson y^e former Defend^t his Plea to y^e writt, That he is not guilty in manner & form and Evidences &c y^e papers read, The Case after y^e hearing was Comitted to y^e Jury, who returned thereir verdict thereon finding for y^e plt Reversion of former Judgment and Costs of Courts. It is therefore Considered by the Court, That former Judgment be reversed, and y^e y^e plt sd Sam^l Gibson shall recover of the said John Gove the Defend^t, y^e Costs of Courts as aforesaid The Defend^t Jno Gove appealed from the Judgment of this Court To y^e next Superior Court of Judicature to be holden for y^e County of Midd^x and Gaue bond to prosecute, viz^t March 20th: 1703: Before y^e Hon^{ble} James Russell Esqr one of y^e Justices of y^e Inferiour Court of Common Pleas for Midd^x. p^rsonally appeared m^r Edmund Goffe Allowed attorney to John Gove as principle, in y^e sum of fifteen pounds & Nathan^l Dowse and Jon^a: Fosdicke of sd Charlestown as surties in seven pounds Each became bound to Sam^l Gibson, That y^e said John Gove shall prosecute his appeal from y^e Judgment of this Court to y^e next Superior Court of Judicature as aforesaid with Effect:

Att^{ys} SAM^l: PHIPPS Cler."—*Middlesex Court of Common Pleas: Records, vol. I., p. 53.*

* Executive Records of the Council, vol. 3, p. 501.

† Mass. Archives, vol. 122, p. 186.

‡ Sic.

"Middlesex ss *Anno Regni Regine Annæ nunc Angliæ &c Tertio.*

At Her Majestys Superiour Court of Judicature, Court of Assize and General Goal-Delivery Begun & held at Cambridge within & for the County of Middlesex on Tuesday the Twenty fifth day of July. *Annoq; Domini.* 1704 —.

John Gove of Cambridge Turner Appell^t vs Samuel Gibson of s^d Town Appellee from the Judgment of the Inferiour Court of Common pleas held at Charlstown March 14. 1703 Its Considered by the Court that althoug by order of the General Court the Cause was to be heard at the next Inferiour Court which fell in December last, yet that Court having taken Connizance of it, & by Consent of Parties Continued it to the next Inferiour Court in March last the Tryal there was good And that the Tryal of the s^d Cause being in the nature of an Appeal from Mr Justice Lynde the order of that Court is final & the Appellant can take nothing by his Appeal." — *Records of the Superior Court of Judicature, 1700-1714, fol. 129.*

Thus ended this protracted and profitless litigation.

Chap. 65. This chapter is from archives, vol. 70, p. 651. It is recorded in council records, vol. VIII., p. 9.

The following is the petition upon which this chapter was based : —

"To his Excellency Joseph Dudley Capt^l Generall And Gouerner in Chief in and ouer her Maj^{ty}s province in the Massachussetts bay in New England In America & the Honourable Council and Assembly

I Humbly Represents to yo^r Excellency and Honnours ; : to peruse this my poor humble petition vnder written Honnored s^r I am Imboldened by your good nature And many singuller nerties ; : especially that of yo^r Neuer failing compassion to the Distressed ; : I hane made it my humble petition at this time to your Excellency Beging and Intreating that you would be pleas'd to Augment something to my monthly weages ; it being but Thirty six shillings p^r month ; which is very Little Considering the trouble that I meet with all ; being expos'd sometimes to weary and teadins Journays in the woods : viz : formerly to speak with the Indeans to come to your Excellency In order for peace ; : & since that two weary and teadins Journays In the Army ; although the first wase to No purpose ; : yet if it may please your Excellency I us'd the utmost of my Indeaner And in the second I wase forwarde and Instrumentall in Discovering takeing and Destroying as many Indeans as I could ; and still would be if your Excellency will Employ mee ; also I would Desier & Intreat your Excellency to consider my Lameness In my hand which by the prouidence of god I gott in the Country seruis at sancorfort ; Now Honnoured s^r my Humble petition to your Excellency is ; that you would be pleas'd to Consider hear off ; and to helpe me hear inn : which is all att present I Humbly Begg Leine to subscribe my selfe your most Humble Pettitiouer and Duttyfull seruatt att your Command in all things —

JOSEPH BEAN." — *Mass.*

Archives, vol. 70, p. 650.

This petition was read, first, in the Council, November 8, 1703, and sent to the House, where it was read on the same day, and on the eleventh, the resolve which constitutes this chapter was passed and sent to the Council for concurrence. On the sixteenth it was concurred in and consented to by the Governor.

The order in Council* for the payment of the ten pounds of this allowance was passed December 13, 1703, and the province treasurer's accounts† show that it was duly paid, and that, thereafter, for several years, he received the pension or annuity of three pounds granted in this chapter.

Chap. 66. This chapter is from archives, vol. 70, p. 653. It is recorded in council records, vol. VIII., p. 9.

The soldiers who were detached or enlisted to strengthen the forces on the frontiers, as described in the note to chapter 53, *ante*, appear to have been ready to march by September 13, 1703, on which day a warrant was ordered by the Governor in Council for advancing twelve pounds to James Converse who was placed "in command of Her Maj^{ty}'s Forces raised ag^t Her Maj^{ty}'s Enemies the French and the Indian Rebels."‡ The Governor also set out for the seat of war "for the improvement of the Forces there,"§ attended by his guards, for whose subsistence a warrant for thirty pounds was ordered, and still another warrant was ordered for fourteen hundred pounds to be paid to Andrew Belcher, § the commissary-general, for subsisting the forces in the "field and garrison."

A few days before, the General Court had passed the act to encourage the prosecution of the Indian enemy and rebels, and the act for regulating the detachment, pay and subsistence of the forces, as mentioned in the note to chapter 53, *ante*.

Early in October || the Governor returned, possibly accompanied by Converse. It is certain that on the twenty-seventh the latter resumed his duties as speaker of the House of Representatives. The following communication from the Governor to the Council at their first meeting after his return shows how the army had been engaged up to that date : —

"October 14, 1703. His Excellency being returned this Week from Piscataqua, Intimated

* Executive Records of the Council, vol. 3, p. 501.

† *Mass. Archives*, vol. 122, p. 193, *et seq.*

‡ Executive Records of the Council, vol. 3, p. 483.

§ Belcher's account as commissary-general was passed upon by the Governor and Council on the fourth of November. By this, it appears that his entire disbursement for provisions, clothing, stores and utensils supplied to the several forts and garrisons, "eastward," and for the province galley and transports, amounted to £3,220, 1s. 6d., in reimbursement of which he had received £1,404, 2s. 6d. A warrant was ordered to be issued for the remainder. The period covered was from the fourteenth of September to the twenty third of October inclusive, which shows the duration of the first campaign.

|| Apparently on the eleventh, since his guard were paid for twenty-eight days' service. — Executive Records of the Council, vol. 3, p. 480.

to the Council, his having sent forth Three hundred sixty odd Souldiers under the Command of Lient^t Cole March, to visit the settlement of the Indn Rebels at Pigwockett, but that by reason of the Troubles with the Indians for about fifteen years past, the way thither had been disused, and for want of burning the Woods, they were so much overgrown, and had so altered the forme of the Land, that the Guides were bewildered and could not find the path, and the Forces were obliged to return, their provisions being expended.

And also intimated that he had formed a second Expedition to that place, by another way, more easy to be found, tho' somewhat further about, and that they were ordered to set forth yesterday. And that he had armed two Sloops to cruise along the Coast as far as St Croix, to make what spoyle they could upon the Enemy the rest of the Forces being posted at Casco Bay, and on the Frontiers." — *Executive Records of the Council*, vol. 3, p. 484.

Thirteen days later, in his speech at the beginning of the third session, the Governor further explains the disposition of the forces at the eastward and his plans for their future service, as follows:—

"Gentlemen

Since I Last saw you I have visited the fronteirs and put them in the best posture I could, and have now about four hundred men upon a second March into the woods to find the Enemys Quarters and to see what can be done upon them, agreeable to your Desire and advice the Last session, and have had the Gally and two sloops well fitted Cruising upon the Eastern Coast to prevent any french Trade with the Enemy.

I shall now draw the forces into quarters to recruit after their weary marches till the snow be well settled for a winters march to the other forts which can at no other time be come at by us and trust in the good providence of almighty God, that he will give us advantage against so perfidious an Enemy." — *Mass. Archives*, vol. 108, p. 11.

To encourage them to continue in the service, for a winter campaign, as suggested by the Governor, the resolve which constitutes this chapter and which was first passed in the House, on the ninth of November, and sent up to the Council, for concurrence, on the tenth, was there read again on the sixteenth, and agreed to with the amendment as printed. Its purpose was to extend to soldiers regularly detached and engaged in the service the same bounty for scalps, etc., that had been granted by chapter 6 of the acts of this year to soldiers who had voluntarily enlisted under pay.

For an account of later proceedings, see note to chapter 85, *post*.

Chap. 67. This chapter is from council records, vol. VIII., p. 12. It has not been found in the archives.

The order in Council * for the payment of this allowance was passed December 13, 1703, and the province treasurer's account † shows that it was duly paid.

Chap. 68. This chapter is from council records, vol. VIII., p. 12, and archives, vol. 70, p. 658.

The petition mentioned in the preamble to this chapter is as follows:—

"To His Excellency Joseph Dudley Esq^r Captain Generall, and Commander in chief of Her Majesty's Province of the Massachusetts Bay, and to the Honorable the Council, and Representatives in Generall Court Assembled.

The Petition of Thomas Hapgood of Marlborough.

Humbly Sheweth

That Your Petitioner was with others Detach'd into the service against the Indian Enemy in the Year 1690, and was one of those who was Engaged in the bloody flight which happened near Oyster River in Now-Hampshire, wherein Captain Noah Wiswall and diverse others were slain, and wounded, and your Petitioner was then sorely wounded, his left arm was broken, and his right hand much shot, so that your Petitioner Endured great Pain, and smart, and narrowly Escaped with his Life. Which Wounds through the good Care that was Taken by the Publick, were Cured, without any Charge to your Petitioner, but so as that your Petitioner, lost much time and hath been thereby very much Disabled from his Labour, and getting his Livelyhood, that he has been forc'd to sell what stock he had acqired before his Wounds, to maintain and support himself since, and your Petitioner being so wounded at the said Fight, was necessitated to Leave and Lose his arms (with which he was well furnish'd at his own charge)

Your Petitioner therefore humbly Pray's your Excellency, and Honours to take the Premises into your Compassionate Consideration, and to Grant him such allowance, as in your Wisdom, shall be thought convenient for him, who hath never as yet had any the least Consideration for the same.

And Your Petitioner shall as in Duty bound ever Pray &c.

Novemb^r 12. 1703." — *Mass. Archives*, vol. 70, p. 657.

This petition was read in the House on the thirteenth, and the resolve which constitutes this chapter was passed and sent to the Council for concurrence. On the seventeenth it was concurred in and consented to by the Governor.

The order in Council ‡ for the payment of this allowance was passed December 13, 1703, and the amount allowed was charged in the province treasurer's account § as paid to Hapgood and included in the entry containing the charge of the allowance paid to Joseph Bean.||

Chap. 69. This chapter is from archives, vol. 70, p. 656. It is recorded in council records, vol. VIII., p. 14.

* *Executive Records of the Council*, vol. 3, p. 500.

† *Mass. Archives*, vol. 122, p. 191.

‡ *Executive Records of the Council*, vol. 3, p. 501.

§ *Mass. Archives*, vol. 122, p. 193.

|| See chapter 65, *ante*.

For an account of the hostilities which preceded the attack upon the fort at Casco Bay, in defence of which March displayed the bravery and suffered the wounds for which compensation was allowed him by this resolve, see the note to chapter 53, *ante*.*

The petition upon which the resolve which constitutes this chapter was passed, and the account of losses which accompanied it, are as follows:—

“To His Excellency Joseph Dudley Esq: Captain Generall and Commander in chief of Her Majesty’s Province of the Massachusetts Bay, and The Honorable the Council, and Representatives in Generall Court Assembled.

The Petition of John March

Humbly Sheweth

That your Petitioner, in the Time of the late Peace with the Indians, was Constituted the Commander of Her Majesty’s Fort at Casco-Bay, and manager of the Trade for the Publick with the Indians there, and in order to attend that service forsook his own Habitation in Newbury and Removed his family, stock of Cattle and other Estate to the said ffort, by which, means, upon the perfidious Breach lately made by that barbarous People, your Petitioner, was in utmost Hazard of Losing his life, and by a wonderful Preservation Escaped the bloody hands of those Infidels. and did actually Lose a very Considerable Part of his Estate, to the value of more than five Hundred Pounds, as is set forth, in an account thereof herewith Presented, which had not been so Exposed, if your Petitioner had not Removed into the way of that Danger to serve the Publick in the said Post

Your Petitioner therefore humbly Pray’s your Excellency and Honours, to Take the Premises into your Consideration and Grant your Petitioner such Compensation & allowance as in your Wisdom shall be Thought meet for one who has sustain’d, so great a losse by means of his being Imploied in a publick service, and your Petitioner will be further obliged to your service, and ever to Pray as in Duty bound &c.

Boston Novemb: 10th 1703

Archives, vol. 70, p. 654.

JOHN MARCH.”—*Mass.*

“An Aconnt of what I lost by the Indians and french. Agust the 10th and sine that Time: 1703

to Eight oxen which feched me more then	. . . . .	0	36	—	00	—	0	d
to 2 sters which I Could haue had for them	. . . . .	0	07	—	00	—	00	
to 14 Cows very large: at 3 ^{lb} — 10 ^s — 0 ^d Each	. . . . .	0	49	—	00	—	00	
to 53 yere old heifers — at 2 ^{lb} 15 ^s — 0 Each	. . . . .	0	13	—	15	—	00	
to 2 two yere old heifers at 45 ^s Each	. . . . .	0	04	—	10	—	00	
to: 10 of best Calfs that Ener I saw	. . . . .	0	10	—	00	—	00	
to. one large booll.	. . . . .	0	03	—	00	—	00	
to: 36 swine woold haue feched me more then	. . . . .	0	40	—	00	—	00	
to: 25 shepe at 7 ^s Each	. . . . .	0	08	—	15	—	00	
to: 5 Akers and A half of very good whete	. . . . .	0	16	—	10	—	00	
to. 6 Acers of As good pese as Ener I saw	. . . . .	0	24	—	00	—	00	
to: 2 Acers one half of as Choye mesling as A man woold desire	. . . . .	0	07	—	00	—	00	
to: A lest † 50: bushells of ots	. . . . .	0	03	—	06	—	00	
to: 4 acers and A half of Indian Corn	. . . . .	0	12	—	00	—	00	
to: my sloop And furnytire in the publick service	. . . . .	1	20	—	00	—	00	
to sum of my Choycest of my goods in her	. . . . .	0	20	—	00	—	00	
to debts: that I haue trusted the inhabytants that was kild and destroyd.	. . . . .	46	—	—	00	—	00	
to lining and other Cloathing of mine that was in onre neighbors houses	. . . . .	12	—	—	00	—	00	
and by the vessell that I Am now A building: that is in timber plank and those things for her	. . . . .	0	30	—	00	—	00	
for Chalus and yokes and for takling for my tene and for other tools	. . . . .	0	05	—	00	—	00	
for A large Cano which I bought for the use of the foort: and people	. . . . .	0	01	—	00	—	00	
for A hors and mare Cost mee	. . . . .	0	12	—	00	—	00	
more Humble servat:								

JOHN MARCH.”—*Ibid.*,

p. 655.

This petition was read, first, in the House, on the eleventh of November. It was read a second time and the resolve passed thereon and sent to the Council, for concurrence, on the nineteenth, having, probably, been committed and favorably reported upon, in the meantime. On the twentieth it was concurred in by the Council and consented to by the Governor.

The order in Council † for the payment of this allowance was passed December 13, 1703, and the province treasurer’s account § shows that it was duly paid.

Chap. 70. This chapter is from archives, vol. 11, p. 187.

“Nov. 22, 1703. A Proclamation for a Genl Thanks Giving upon ye 9th of Deer next, was read & Advised.”—*Council Records*, vol. VIII., p. 14.

* “Casco, which was the utmost frontier, commanded by Major March, who was all this while Inseparable of the spoil that the Indians had done, was saluted by Mauxis, Wanunonet, and Assacombult, three of their most valient and pulesant Sachems. They gradually advanced with a flag of truce, and sent one before them, to signify that they had matter of moment to impart to him. At first, he alighted the message, but on second thoughts went out to meet them; they seeming to him but few in number, and unarmed: however he ordered two or three sentinels to be ready in case of danger. Their voice to him at first seemed like the voice of Jacob, but their hands were like the hands of Esau: With their tongues they used deceit, and the poison of asps was under their lips. For no sooner had they saluted him, but with hatchets under their mantles they violently assaulted him; having a number that lay in ambush near them, who shot down one of his guards: but being a person of uncommon strength, as well as courage, he soon wrested a hatchet from one of them, with which he did good execution. Yet if sergeant Hook (with a file of ten from the fort) had not speedily succoured him, they would soon have overpowered him.”—*Penhallow’s Indian Wars*, pp. 19, 20.

† See: at length?

‡ Executive Records of the Council, vol. 3, p. 501.

§ *Mass. Archives*, vol. 122, p. 200.

"Jan. 24, 1703-4. A Proclamation for appointing of Thursday the 17th of February next a day of General Fasting & prayer throughout this Province was read and advised to." — *Executive Records of the Council*, vol. 4, p. 11.

Chap. 71. This chapter is from archives, vol. 70, p. 663. It is recorded in council records, vol. VIII., p. 15.

The reason for including this chapter among the resolves appears in the foot-note to the chapter; yet, though Dudley so far yielded to the will of the representatives as to reduce the garrison, he, at first, resented their interference in a speech to them on the day on which they sent him the message which constitutes this chapter. The following is the record of his remarks on this head:—

"Nov. 23, 1703. . . . As to their Message for reducing the Garrison at the Castle to the number of thirty for the Winter Season, His Answer was, He is Captain General of this Province, & the raising or disbanding of Forces, Gaurds & Garrisons lay with him as he shall judge necessary for her Majesty's Service, But he is & will be as provident & careful of the Expence of the Country's Money as possible." — *Council Records*, vol. VIII., p. 15.

Chap. 72. This chapter is from council records, vol. VIII., p. 15. It has not been found in the archives.

The order in Council* for the payment of this allowance was passed December 13, 1703, and in the province treasurer's account† this amount is included in the £36 10s. charged as paid to White. See chapters 12 and 33, *ante*, and 109, *post*.

Chap. 73. This chapter is from council records, vol. VIII., p. 16, and archives, vol. 62, p. 449.

The petition mentioned in the preamble to this chapter is as follows:—

"To his Excellency Joseph Dudley Esq; Captain General and Governour in Chief in and over Her Maj^{ty}s Province of the Massachusetts Bay in New England, and to the Hon^{ble} Council and Representatives in General Court Assembled.—

The Petition of Andrew Belcher Esq;—

Sheweth.

That whereas the Ship John of Exon Zechariah Cawley Commander, Laden with Salt and Wine at Lisbon and Fayall and bound for Boston in New England, being Addressed to your Petitioner, upon the Third of this present Month November, by reason of the high Swelling of the Sea after a violent Storm was unhappily cast upon the Rocks, lying off Pemberton's Island within Nantasket Bay, where she bulged and fill'd with water, her Salt and the greatest part of the wines being lost, onely with great difficulty Seventeen Pipes, and one hogshhead thereof saved, which being fill'd up make but Fourteen Pipes, the ships Masts and Riggins being cut away, her hull full of Water and broken, And the charge of getting her up and repairing her will probably be more than she will be worth.

Your Petitioner therefore humbly prays, That on consideration of the great loss Suffered by ye Owners of the s^d Ship, and disappointment of her further intended voyage, Yo^r Ex^{cy} and this Hon^{ble} Assembly would be pleased to remit to them the Duty of Impost payable for the s^d Wines, as also the Duty of Tunage in case the s^d Ship be recovered and fitted out. And Yo^r Petition^r as in Duty bound shall ever pray.

November 24th 1703.

Archives, vol. 62, p. 448.

AND^r BELCHER." — *Mass.*

On the twenty-fourth of November, this petition was read in the Council and sent to the House, where, on the same day, the resolve which constitutes this chapter was passed and sent to the Council for concurrence. On the next day it was concurred in and consented to by the Governor.

Chap. 74. This chapter is from archives, vol. 11, p. 187. It is recorded in council records, vol. VIII., p. 17.

The resolve which constitutes this chapter was passed by the representatives November 19, 1703, and sent to the Council for concurrence. On the twenty-sixth it was concurred in and consented to by the Governor.

The province treasurer's account‡ shows that fifteen pounds was paid to "Mr Joseph Smith the minister of Brookfield towards his Support for three quarters of a yeares service allowed by the General Assembly."

Chap. 75. This chapter is from archives, vol. 11, p. 188. It is recorded in council records, vol. VIII., p. 17.

The resolve which constitutes this chapter was passed in the House of Representatives November 20, 1703, and sent to the Council for concurrence. On the twenty-sixth it was concurred in and consented to by the Governor.

By a vote of the Council§ passed July 18, 1704 for a warrant on the treasurer it was advised that the amount of this allowance be paid "to Samuel Williams on behalfe of his Brother Mr John Williams Minister of Deerfield;" and in the province treasurer's account|| the amount is charged as paid accordingly. See note to resolve, 1704-5, chapter 6.

Chap. 76. This chapter is from archives, vol. 70, p. 652. It is recorded in council records, vol. VIII., p. 10.

There seems to be no escape from the conclusion expressed in the foot-note on page 35, *ante*, that instead of a formal concurrence in the important resolve which constitutes this

* *Executive Records of the Council*, vol. 3, p. 500.

† *Mass. Archives*, vol. 122, p. 191.

‡ *Ibid.*, p. 192.

§ *Executive Records of the Council*, vol. 4, p. 46.

|| *Mass. Archives*, vol. 122, p. 234.

¶ In New Hampshire the same day was appointed a day of fasting, the thanksgiving having been ordered for the twenty-ninth of December. — *Provincial Papers*, vol. III., pp. 266, 273.

chapter, the Governor accepted the vote of the House, as authority for his approving the pay-rolls of officers and men, in which the pay was stated according to the schedule thus established by the representatives.

The resolve, or another for the same purpose, was first sent to the Council from the representatives, March 25, 1703. No action upon it by the Council having been communicated, the House, by a committee consisting of Messrs. Jewett, Phipps, Blagrove "and others," sent a message to the Council, on the fourth of November, "to inquire after" it. By the resolve as here printed, it appears to have been sent to the representatives before the ninth, for on the tenth, the present resolve, bearing date of the ninth and "sent up for concurrence," was read in the Council. By the sixteenth, it had been returned to the House, with a message "to observe to the House that there was no provision made for any field-officer above the degree of a major and his pay as such to continue only while out after the enemy, or until his return to garrison or the expedition be over." The resolve was immediately returned "with a message that the House insisted thereon." On the eighteenth the following entry appears in the record:—

"Nov. 18, 1703. A Message was sent from the Representatives to desire their Act for the Establishment of Officers & Soldiers Wages, That the House may have further Consideration thereof. And it was delivered to their Messenger, & returned again with the razing out the Word (Major)." — *Council Records*, vol. VIII., p. 13.

The draught containing this cancellation shows that the words "major or" were stricken out. By this amendment, therefore, one of the grounds of objection was removed by making the resolve apply unequivocally to any commander-in-chief, whether a major, or an officer of higher or lower rank.

On the twenty-sixth, a message was sent up from the House and acted upon, as shown in the foot-note to this chapter.

The next spring another expedition was fitted out under command of Colonel Benjamin Church, of which Penhallow gives the following account:—

"... little or no impression could ever be made by us upon them, [the French and Indian enemy] by reason of their retiring into unaccessable swamps, and mountains. Wherefore it was determined, that Major Church, who was so eminently servicable in the former war, should visit their head quarters, according to a scheme which he had projected.

No sooner was his commission granted, but he raised a considerable number of volunteers out of Plymouth colony both of English and friend Indians, and marched to Nantasket for further instructions; where the following gentlemen were appointed officers under him, viz. Colonel Gorham, Major Hilton, Captain John Brown, Constant, and Edward Church, Cole, Dyer, Lanib, Cook, Harreden, Williamson, and Myrick, with five hundred and fifty men and fourteen transports, and with thirty six whaleboats, which were guarded by Capt. Smith, Rogers, and Sonthack, in three ships of war. After they were equipped, they sailed to Pascataqua, to make up their complement from thence. May 15th, they sailed eastward, visiting all parts as they went along, till they came to the Green Islands, where they took Monsieur Lafebure, and his two sons, with a Canada Indian, whom they examined apart: The father at first seemed snarly and crooked, and the young men were much of the like temper, but being told what they must trust unto in case they did not confess, were afterwards submissive, and promised to pilot them wherever they were directed. Upon this, the transports and whaleboats were ordered to be in readiness, and every man to have a week's provision; from hence, they paddled to Penobscot, and with the assistance of D. Young, whom they brought out of Boston Gaol on purpose for a pilot, killed and took a considerable number both of French and Indians, among whom was St. Casteen's daughter. From thence they went to Passamaquodda, and Mount Desart, where they met the three ships of war according to appointment. Their custom was to rest in the day, and row in the night; and never to fire at an Indian if they could reach him with a hatchet, for fear of alarming them. Here they seized the old Lotriell and his family, after that, Monsieur Guorden, and Sharkee, who a little before came with a commission from Canada to form an expedition against the English. No sooner had our forces arrived here, but orders were sent them from Boston, forthwith to sail to Port-Royal, expecting some store ships from France, which was welcome news for officers and soldiers. But they missed their expectations: However, the ships stood off the harbor while the land forces went to Menis, where a council of war was held, and Lieut. Giles was sent to the town with a flag of truce and summons to surrender; their answer was, 'that if our forces would not hurt their estates, they would surrender, otherwise, were resolved to stand their ground.' Upon which, a descent was made upon them that night, but little effected until the morning, and then the forces drew up and drove all before them.

There was at this time a considerable plenty of brandy and claret in their houses, which rather proved a snare than service to our men; especially the Indians, who naturally affect strong drink, but this was soon prevented, by breaking in the heads of the casks. Lieut. Baker and one more were killed in this attack, and not above six died in the whole expedition. Most of their houses were burnt, and much plunder taken, but with as little effusion of blood as possibly could be. The General ordered their dams to be dug down, and their fortifications to be laid in ashes. Having as great success as reasonably could be expected, throughout all the territories of L'Acadia, and Nova Scotia, where he took a hundred prisoners, burnt and laid waste all the French settlements, (except the town of Port Royal) a great many cattle were also killed, and the Indians driven into such confusion, that they left their wigwams and retired into private cells.

On July 14th, a council of war was called to concert what next to do, who resolved, that as the Port was alarmed, the enemy was more numerous than at first; and that as many of our men were tired and defective, it would be best to return; which was also consented unto by our sea officers. But notwithstanding the fatigue that this worthy gentlemen * had undergone, and the dangers he had run; the spoil he had done; and the victories he won,

yet he could not escape the censures of many. Some indeed extolled his valor and conduct even to an hyperbole, while others endeavoured to lesson it with as much disgrace and infamy. Some thought he did too much, others too little: But after one and another has passed their sentiments, the General Assembly (which was then sitting) voted him thanks for the good services he did both to the queen and country.

The Governor of Port Royal being in fear of a new enterprize, sent Lewis Allein as a spy, under the colour of a flag of truce, with six prisoners, (whereof Mr. Huddy of Piscataqua was one) to observe and know the motion of the English. But being suspected, he was apprehended and searched, and in his pocket-book was found this direction; "That if any enterprize was on foot, he should (in his advice book) join L. A. the two first letters of his name close together; if it was only in agitation, to place them at some distance; But if nothing was in motion, then to sign a cross." — *Penhallow's Indian Wars*, pp. 27-30. See, further, note to chapter 100, *post*.

A question having arisen in the Council as to the pay attaching to the rank of colonel and lieutenant-colonel, in this expedition, the following proceedings took place: —

"August. 17th 1704. In Council

Voted That there is a necessity of Stating the pay for a Colonel and Lieut Colonel in the late Expedition into the Bay of Fundey And the House of Representatives are desired first to proceed in that matter. —

Sent down.

ISA^d ADDINGTON Secy. —

In the House Representatives Augst 17: 1704: Read, and Voted That the House are fully of the mind that the Establishm^t of wages already made, doth sufficiently Provide for the Expedition abovementioned as well as others.

JAM^s CONVERSE Speaker." — *Mass.*

Archives, vol. 71, p. 63.

On the eighteenth, a message from the Council was sent to the representatives by Elisha Hutchinson, John Phillips and John Higginson "to move the House to a further consideration of stating the pay for a colonel and lieutenant-colonel in the late expedition." To this the House responded on the nineteenth as follows: —

"Voted. That It is y^e minde of this house signified by theire Establishment of Wages That no officers shall haue above Captaines Pay Excepting only the Comaander in Chiefe of any Expedition." — *Ibid.*, p. 65.

This vote on the same day was sent up to the Council and read.

Chap. 77. This chapter is from archives, vol. 11, p. 186. It is recorded in council records, vol. VIII., p. 19.

The petition upon which this chapter was founded is as follows: —

"To his Excellency the Govern^r Councell and Representitives now Assembled and sitting in Boston this Twelfth day of November 1703.

The Humble Petition of the Towne of Yorke in the Province of Main./

Humbly Sheweth

That it hath pleased Almighty God to Protect and keep us yor remote Neighbours a Poor People for more then fourteen Years past, and that Little, God hath given us (above Necessary food & Rayment) by our industry in the Years of Peace has been laid out in building, our Land at p^{re}nt doth come short of Producing our bread Corne, Our Mills a wholly Useless, wee are taken off from our Employem^ts have lost much Corne and Hey in our remote Skirts this summer, Wee have borne almost an Equall share with Pressed soldiers, in Watching and Warding. And Wee have Lost every Way in runing the hazard of venturing to our ungarison'd howses, our stocks left, are our Chief Livelyhood, and if you take away them wee shall not be able to subsist.

Therefore may it please Yor Excellency Councell & Representitives to Consider our Low circumstances, which Capt Abraham Preble who p^{re}sents this Petition, will more fully relate, and to mitigate at least the sinking body, & burthen of Taxes laid upon us, which you will be made sensible wee are no Wise able to stand under.

In Granting our Petition Your Excellency & honours will doubtless do a deed of Charity and wee shall humbly Pray that God will not forgett Yor Labour of Love herein

York Novemb^r 8th 1703

Select Men for the	{	SAMUELL DANIEL
Towne of York		JOSEPH BANDS
in behalfe of s ^d		ARTHER BRAGDON
Towne		SAMUEL WEBBOK.

Archives, vol. 11, p. 185.

On the first of December the order which constitutes this chapter was passed by the House, concurred in by the Council and consented to by the Governor.

Chap. 78. This chapter is from archives, vol. 11, p. 189. It is recorded in council records, vol. VIII., p. 19.

By the following petition it appears that John Wheelwright, minister at Wells, had repeatedly applied to Governor Dudley for a garrison to defend the town. Apparently, upon this last application, his prayer was granted, but it being strictly a military proceeding, under the sole direction of the Commander-in-chief, no record of the Governor's action has been found either in the journals or in the archives: —

"Wells August: 4th 1702:

May it Please youre Excellency,

At my hearing of youre Excellency's Returne from the Eastward to Piscataqua the Last week, I immediately went thither to waite on youre selfe there, but youre quick dispatche from thence Preuented me of that oportunity, which maekes me bound to Gine youre Excellency the trouble of these lines./ S^t I vnderstand that the Indians at the Eastward vearay Redily Profosed Greate fidelity to youre selfe and the English nation with Great Promises

of Peace and frendship, which Promises so Longe as it may stand with their owne Intrest I beleive they may keep and no Longer, their teachers Instructing them that there is no faith to be kept with British sutch as they account us to be, themselves also being naturally deseaitful Like their father hom they serue, Indeed Sr I Cannot haue Charity for them to beleive what they say, I haueing Experienced so much of their horrible deseaitfullnes in the Last war vpon many of their treaties and artickles of Peace, so that I Cannot but apprehend our selues that live in these remote Parts of the Countrey and being fronteres but to be in Great dainger, and Considering that we haue wars Proclaimed with the french who are not so far from vs but that they may withoute any Great difficulty send out an army against vs, eaither with or without the assistance of our Pretended frend Indians, This towne being the nerest to the Enemy and the farthest from any help or Relief, we Cannot but apprehend our selues to be in Great dainger and espetialey at this season of the yeare, our occasions Calling us Geniraley from hom to Get our hay and Corn secured, our Inhabitents doth theirfore (Pray that your Excellency would assist vs with sum men, twenti or thirty or so many as your Excellency in Wisdom may think fit) : my humble Request to your Excellency when at saco was, that you woude Please to Grant me the Liberty of a Garison whe I nowe Live which then your Excellency did not resolute, I still Pray for the same with submission, and desire your Excellencies Resolution in that mater, to which I shall Redily submit with only Informing your Excellency that if I must remone into the middle of the towne I must Leave that Little Estate that I haue to maintaine my family with, and Carey a Large family wheire I haue but little to maintaine them withall, Praying your Excellencies Pardon for these rude lines, I Itemaine euer to be your Excellencies most humble seruant at all Comands

JOHN WHEELWRIGHT

[Endorsed:]

To His Excellency Joseph Dudley Esq^r Captain General and Gouvernour in Chief in and over the Province of the Massachusets Bay in New England: &c." — *Leffingwell Collection of Manuscripts, sale-catalogue number, 6,497.*

The order which constitutes this chapter was passed upon the following petition:—

"To his Excy Joseph Dudley Esq^r Capt^a General and Gov^r in Cheife in and over her Maj^{ties} Province of the Massachusets Bay &c: and the Honoble Council and Representatives in Generall Court Assembled—

The petition of John Wheelwright in the behalf of the Town of Wells—

Humbly Sheweth

That Whereas it hath pleased God to suffer the Indian Enemy to make a sore & terrible breach upon our Towne to the Loss of Estates, & lives of many of our Inhabitants, and Captivity of many of friends and Neighbors the rest drove into Close garrisons from Houses and habitations of their own and stand in the seat of the war (it being the Eastermost Towne now standing) the greatest part of our time being spent in watching and Warding The most part of us are drove to great straits and difficulties and are hereby rendered unable to bear publick charges and Taxes.

Yor Petitioner doth humbly pray this Honoble Court may take the same into Consideration and Remitt those Taxes lately lay'd upon our s^d Towne And by some provision for the support of the Rd^l Mr: Sam^l Emery or Minister to prevent us the privation of wt^r yor Honors knows will be our utter ruine.

And Yor Petitioner shall ev^r pray &c.

JOHN WHEELWRIGHT." — *Mass.*

Archives, vol. 11, p. 189.

This petition was read, first, in the Council and sent down to the House, where, December 1, 1703, this chapter was prepared and passed. On the same day it was concurred in by the Council and consented to by the Governor.

Chap. 79. This chapter is from archives, vol. 20, p. 85. It is recorded in council records, vol. VIII., p. 19.

The resolve which constitutes this chapter was passed by the House of Representatives, November 12, 1703, and sent to the Council for concurrence. On the second of December it was concurred in and consented to by the Governor.

By an entry in the accounts* of the province treasurer it appears that for a bill of exchange for two hundred pounds sterling, payable to Phipps in London, the treasurer paid Andrew Belcher, "on behalfe & for Accompt of W^m Partridge Esq^r," two hundred and eighty pounds, forty per cent being added "for y^e Exchange."

On the twenty-third the Governor addressed the House as follows:—

"Mr Speaker & the House being come up, His Excy observed to them that he had seen the Resolve of the House for granting a Sum of Money to Constantine Phips Esq^r in Consideration of what Service he has done & to assist him in farther serving as Agent for this Province, Mr Phips is a Gentleman he knows very well, & has a respect for, But he cannot be an Agent for this Province, having no Commission or Warrant so to be since his Arrival with her Majesty's Commission for the Government. That he is of Opinion that it is advisable to have two Persons in England to represent this Province, that if one be absent the other may attend, The Fees would be the same, & the Gratification is discretionary, That they be appointed by the Gen^l Assembly & have his Excys Warrant. . . ."

— *Council Records, vol. VIII., p. 15.*

As to the force of Dudley's objection to Phipps's authority to act as agent, see note to resolves, 1701-2, chapter 51.

Chap. 80. This chapter is from council records, vol. VIII., p. 19. It has not been found in the archives.

As has been shown in the note to chapter 46, *ante*, the Governor, in his first speech to

* *Mass. Archives, vol. 122, p. 200.*

the Assembly, in June, 1702, exceeded his instructions in expressly recommending a "settled, stated salary," for the secretary of the province. In his subsequent speeches of October, 1702, and May, 1703, it will be remembered he renewed the recommendation, in a general way, without specific mention of the office of secretary; but after this, up to the date of this chapter, he appears not again to have pressed the subject. The amount granted by this chapter is the same that the Secretary received the previous year. See resolve, 1702, chapter 63.

The order in Council * for the payment of this allowance was passed December 13, 1703, and by an entry in the province treasurer's account † it appears to have been duly paid.

Chap. 81. This chapter is from council records, vol. VIII., p. 20. It has not been found in the archives.

Russell had been chosen, jointly, with William Payne ‡ "commissioner for the impost and excise" under the act of 1702, chapter 7, § 4, and was reappointed this year to act alone, as appears by the following entry:—

"July 31, 1703. James Russel Esq^r was chosen by the Vote of both Houses to be Commissioner for Collecting & Receiving y^e Duties of Impost & Tunnage of Shipping laid by this Court during the Continuance of the Act [1703-4, chapter 4] granting the same." — *Council Records*, vol. VII., p. 426.

The order in Council * for the payment of this allowance was passed December 13, 1703, and by an entry in the province treasurer's account § it appears to have been duly paid.

Chap. 82. This chapter is from council records, vol. VIII., p. 20. It is preserved in archives, vol. 101, p. 247.

The petition upon which this chapter was founded is as follows:—

"To his Ex^{ty} y^e Gov^r and Council, and Representatives Now assembled in Boston
The Peticon of Samuel Marion

Humbly Sheweth

That whereas y^{or} Peticon^r for above twenty years past hath been Improved on all public Occassions to beat the Drum Vz Laws, acts, proclamations &c. and a very rare thing that any other Drum^r was Improved, and as yet never had any allowance for that Service, which has been a great hindrance to y^{or} Peticon^r being often Called out on y^e Last day of y^e week being his busiest day, and no other hand to help him Doth most Humbly pray this Hon^{ble} Court to take y^{or} poor Peticon^r's Case into Consideration and if it may be to Grant him ten pounds for his s^d Service, which at 12^d a time y^{or} Peticon^r dos think might have amounted to more money: However y^{or} Peticon^r Submits to y^e Prudence of this Court hoping there will be a resonable allowance Granted him; and your petitioner as in Duty bound Shall not Cease to pray &c." — *Mass. Archives*, vol. 101, p. 247.

This petition was read, first, in the House, October 30, 1703, and on the nineteenth of November, the resolve which constitutes this chapter was passed and sent to the Council, for concurrence. On the second of December it was concurred in and consented to by the Governor.

The order in Council || for the payment of this allowance was passed December 13, 1703, and by the province treasurer's account ¶ it appears to have been duly paid.

Chap. 83. This chapter is from archives, vol. 101, p. 253. It is recorded in council records, vol. VIII., p. 20.

The resolve of the July session referred to is chapter 48, *ante*.

The order which constitutes this chapter was passed in the House, November 30, 1703, and sent to the Council, for concurrence. On the second of December it was concurred in and consented to by the Governor.

The province treasurer in his account ** charged himself with the whole five thousand pounds in bills of credit ordered to be printed by the act †† of this year. See note to chapter 84, *post*.

Chap. 84. This chapter is from council records, vol. VIII., p. 20. It has not been found in the archives.

The bills of credit retained by the committee, as mentioned in the preceding chapter, and which by that chapter they were ordered to deliver to the province treasurer, were probably retained as security for their expenses, for which no allowance had been granted. By the present chapter provision was made for their reimbursement.

The order in Council || for the payment of this allowance was passed December 13, 1703, and the treasurer's account †† shows that they deferred taking the allowance granted to them for their services by chapter 48, *ante*, until after the present grant, and then were paid for both.

Chap. 85. This chapter is from archives, vol. 70, p. 664. It is recorded in council records, vol. VIII., pp. 20, 21.

* Executive Records of the Council, vol. 3, p. 500.

† Mass. Archives, vol. 122, p. 191.

‡ *Ibid.*, vol. 119, p. 202.

§ *Ibid.*, vol. 122, p. 227.

|| Executive Records of the Council, vol. 3, p. 501.

¶ Mass. Archives, vol. 122, p. 202.

** *Ibid.*, p. 185.

†† 1703-4, chapter 3, § 5.

‡‡ Mass. Archives, vol. 122, p. 192.

The encouragement to volunteers given by the act* of September 8, 1703, was, by this chapter, doubled in the case of scalps taken, and also extended to volunteers from New Hampshire.

The "proposal" which constitutes this chapter was passed by the representatives on the twenty-sixth of November and sent to the Council for concurrence, where, on the twenty-seventh, it was read. The proposal added by the House † was in response to the Governor's declaration respecting the forces going into quarters preparatory to the winter campaign, in his speech of October 27, 1703, printed in the note to chapter 66, *ante*. It was not agreed to by the Council, and so is not part of the vote. Hence the Governor's caution in confining his signification of consent on the original draught to the "order for reward," and the action of the Secretary in omitting this proposal when he made up the record of the vote.

On the second of December, the Council concurred in the first proposal and the Governor signed it, as above stated. On the thirteenth Dudley wrote to Lieutenant-Governor Usher, soliciting the opinion of the council of New Hampshire as to the advisability of proceeding "upon the ice to beat up the Indian enemy's headquarters." The Lieutenant-Governor, in a speech to his council on the twenty-second, recommended the scheme, as a preventive of Indian raids in the spring, and mentioned "the Narraganset attack and Sir Edmund Andros's curbing the enemy" as evidence that it had ever "been judged the best season in the winter" to thus attack the enemy, observing, also, that "its known well the enemy cannot be pursued so well in the spring as in the winter." The council thereupon advised "that the forces abroad be continued, and that there be an addition ordered, and that this Board humbly desires his Excellency, Joseph Dudley, Esq. Governour, &c. would be pleased to order said forces with all expedition possible to march to the Indian enemy's head Quarters, being the only thing that in all probability under God, may secure our Frontiers and preserve the subjects. And that this Board at all times shall be ready and willing to give their assistance." ‡

Six days later Usher reported to the council that he had ordered out twelve scouts "at the heads of the rivers for ten days," and had issued orders for the inhabitants to repair to their several garrisons.

On the twenty-fourth the advice respecting the disbanding of the forces, which the Massachusetts House of Representatives had offered on the second, received the qualified approval of the Council, as appears by the following entry:—

"His Excellency communicated to the Council Letters he had received from the Colonels of the Militia in several parts, referring to a Winter's march to the Indian head quarters.

As also a minute of the Lt. Governr and Council of New Hampshire advising thereto. And ordered the vote of the Representatives at their last session relating to that matter to be read, proposing an encouragement to volunteers, who being Commissioned by his Excellency shall set forth and maintain themselves free from the Province charge. And considering the great difficulty and hardship, that will unavoidably attend a march of the detached Forces during the Winter season, further proposing that the same may be desisted, and that his Excellency be humbly moved to disband such of the said Forces as are kept in pay for that designe.

And then the question was put to the Council, whither they did advise his Excellency to march with the detached Forces, and such volunteers as should offer.

The Council do not advise thereto, The Assembly having pass'd such a vote.

But on consideration of the late Intelligence of further mischief done by the Indians in the Eastern parts, prayed his Excellency to keep so many of the Forces on foot, as shall be necessary for the defence of the Frontiers." — *Executive Records of the Council*, vol. 3, p. 508.

In order to offer further inducement for the formation of parties of volunteers both in New Hampshire and Massachusetts by giving wider publicity to the additional encouragement offered in this chapter, it was promulgated by proclamation agreeably to the following order in Council:—

"Jan. 3, 1703-4. His Excellency proposed to the Council the Emitting of the Order pass'd by the General Assembly, at their last Session, begun the 27th of October past, for the Encouragement of volunteers against the Indian Enemy and Rebels, to be recited in a Proclamation, that it may be made publick. Which was accordingly Advised." — *Executive Records of the Council*, vol. 4, p. 1.

On the twentieth, this proclamation and a letter from Governor Dudley to the council of New Hampshire "relating to fifty men to be sent out for ten days," were read at the Board, and an order was immediately passed that the Secretary write to Captain Shadrach Walton, Captain Winthrop Hilton and Captain John Gilman, junior, requesting them to encourage the obtaining of volunteers and to report their proceedings to the Board. The report of these officers was made on the twenty-seventh, Captain Gilman presenting a list of twenty volunteers, and stating that he expected twelve more by the "latter end of next week besides officers," that snow-shoes were preparing for thirty men and representing the need of "provision and blankets, a pilot and a doctor." Captain Samuel Chesley stated that forty or fifty volunteers from Dover and Oyster River, who had thirty pairs of snow-shoes and rackets already made, would enlist under him as captain, and their principal want was some bread and more snow-shoes. Captain Winthrop Hilton volunteered his services, but had not had sufficient notice to enable him to enlist volunteers. Colonel John March came in from Hampton to advise the Board that Lieutenant Joseph Swett had "beat up for volunteers" at Hampton and had the promise of thirty-nine or forty men provided with snow-shoes and ready to march with the others, if supplied with provisions.

* Province Laws, 1703-4, chapter 6. See, also, resolves, chapters 100 and 116, *post*, and notes.

† Provincial Papers of New Hampshire, vol. 11., p. 416.

‡ On the second of December.

Secretary Story was thereupon directed to issue orders "to the several Captains of Exeter, Dover, and Oyster River, to appear with their Company in each respective Town, next Monday, for the encouragement of Volunteers to be Listed under Capt. Gilman and Lt. Chisley, in order to go against the enemy,"* the captains to bring in a list of the volunteers within a week. The list having been brought in accordingly, the council met on the third of February, Governor Dudley presiding, and voted that the service of the volunteers should be well represented to the Assembly, that the wounded should be cared for at the charge of the province, assuring them of the bounty offered by Massachusetts, and that there was no doubt that New Hampshire would make it up to forty pounds. Orders were also issued for impressing blankets, and for a supply of ammunition from the public stores.

Meanwhile a successful movement in the same direction was started in Massachusetts. On the thirty-first of January tidings having reached Boston that on the twenty-eighth thirty Indians had assailed a garrison at Newichawannock, and had been repulsed with loss and pursued by a party of English, after having killed one girl,† Dudley decided to proceed to the frontiers and take charge of the movements against the enemy. He informed the Council that several companies of volunteers in New Hampshire and the county of York had enlisted in the service upon the "encouragement and reward" of this resolve, and that he proposed to set out for New Hampshire the next day, "to put forward that design."‡ By the twenty-first of February he had returned, for on that day he presided at the Council; and probably the expedition was ended by that time.

For defraying the subsistence of the Governor, his attendants and guards on this journey thirty pounds were advanced to the Commissary-General, and on the twenty-ninth of February an additional allowance was made to Colonel Thomas Packer of Piscataqua for entertaining the party.

Encouraged by the liberal bounty now offered, Captain William Tyng led a party of volunteers against the Indians in their winter camp, which, if the result was not equal to his expectations, brought to him and his companions a pecuniary reward so considerable as to remain the only important detail of the expedition that has been definitely recorded, and affording the means of ascertaining the number of the enemy's scalps taken by him, in an encounter, the precise date, place, and most of the other particulars of which have never been brought to light.

Of these expeditions from Massachusetts and New Hampshire, Penhallow gives the following account:—

"The general assembly being sensibly affected with the state of matters, and disposed to a vigorous prosecution of the war, enacted, that forty pounds should be given for every Indian scalp, which prompted some, and animated others, to a noble emulation. Capt. Tyng was the first that embraced the tender, who in the depth of winter, went to their head quarters, and got five, for which he received two hundred pounds. Major Hilton also with five companies more made the like essay, and so did Capt. Stephens,§ but returned with no other laurel than the safety of themselves and company."—*Penhallow's Indian Wars*, p. 22.

See, also, Niles's History of the Indian and French Wars, in Mass. Hist. Soc. Coll., vol. VI., third series, p. 251.

Chap. 86. This chapter is from council records, vol. VIII., p. 21. It is preserved in archives, vol. 101, p. 254.

The resolve which constitutes this chapter contained, as originally drawn, besides a clause for printing, signing and delivering to the province treasurer the sum of ten thousand pounds in bills of public credit, the following final clause:—

"And That Mr Thomas Oakes, Capt Ephraim Savage, and Capt Samuel Phipps, be a Committee for the affair aforesaid who shall be upon Oath for the faithful management thereof, and be allowed Ten shillings, for every Hundred Pounds, by them Signed numbred Indented and Delivered as aforesaid."—*Mass. Archives*, vol. 101, p. 254.

In this form, November 12, 1703, it was sent to the Council. On the twenty-sixth it was returned with a message, conveyed by John Walley and Penn Townsend, "to the House to desire that the word (Levied) in the Fund proposed, might be altered to the word (Granted) and that three of the former Committee might be continued to sign the new Bills to be made."||

It was thereupon amended to its present form not, it would seem, by the substitution proposed, but, as appears by the original on file, by omitting the words "to be levied" between the words "pounds" and "upon polls and estates," etc. Thus changed it was concurred in by the Council, and "allowed" by the Governor on the second of December.

On the thirteenth a vote was passed in Council¶ advising that a warrant be made ordering and empowering the province treasurer "to issue forth the sum of ten Thousand pounds, of the Bills of Credit on this Province that are or shall be received into the Treasury to be by him issued out, for the use for which the last Tax was granted &c."

* Provincial Papers of New Hampshire, vol. II., p. 420.

† Sewall's Diary, vol. II., p. 93.

‡ Executive Records of the Council, vol. 4, p. 15.

§ The province treasurer's accounts show that Captain Benjamin Stevens was paid "for himself & company for their serving her Majesty in two Several Marches in y^e woods part of s^d Comp^y from y^e 5th of Febru^y 1703 to y^e 25th And the other part to the 25th March following;" and again, for "sundry incidental charges in raising & fitting out a Comp^y of Volunteers."—*Mass. Archives*, vol. 122, p. 193.

On the sixth of March Dudley thus enumerated those who had been in this service: Captain Tyng, 60 men, 17 days; Major Hilton, 200 men, 23 days; Captain Stephens, 90 men, 19 days—and Captains Bulkley, Chesley and Harvey, and Lieutenant Wilder still out with 60, 100, 50, and 30 men, respectively. Winthrop Papers, part V., p. 179.

See, also, resolves, 1705-6, chapter 59, and 1706-7, chapter 92, and notes. One of the papers relating to the former of these last resolves and signed by Benjamin Stevens is dated from Andover.

|| Council Records, vol. VIII., p. 17.

¶ Executive Records of the Council, vol. 3, p. 501.

The province treasurer in his account* charged himself with the whole ten thousand pounds in bills of credit ordered to be issued by this resolve.

Chap. 87. This chapter is from council records, vol. VIII., p. 25. It has not been found in the archives.

The present appointment was not of a general fast, but was exclusively for the Legislature, and was observed by both branches on the fifteenth of March† agreeably to the Governor's appointment. Twice subsequently during the sessions of the Assembly; viz., March 25 and April 20, 1704, the representatives sent similar messages urging the appointment of a public fast, only one of which appears to have been acted upon (chap. 124, *post*).

The present fast was proposed four days after the rumor of the Deerfield massacre of February 29, 1703-4, had been confirmed.‡

The executive records of the council from February 29, 1703-4, to June 6, 1704, "do not appear to have been preserved;" § but from the following entry in the province treasurer's account, it is evident that the Legislature made due provision for the refreshment of their members and of the clergy, who, by their invitation, officiated on the occasion:—

"Paid Edw^d Bromfield Esq^r his Disbursts for a Supper for y^e ministers
& some refreshm^t for y^e members of y^e General Assembly on y^e evening
of their Fast 6^l 2^s 10^d."

— *Mass. Archives*, vol. 122, p. 202.

Chap. 88. This chapter is from council records, vol. VIII., p. 25, and archives, vol. 71, p. 1.

The petition mentioned in the preamble to this chapter was as follows:—

"To his Excellency y^e Governour, and Council, And Representatives now sitting at Boston this 8th of March 1703—

The humble petition of Anna Blanchard of Groton

Humbly sheweth

That whereas y^r petition^rs Husband is Lately dec^d occasioned by y^e hardships, and difficulties, he underwent in y^e Late Expedition under Cap^t Tyng,|| & being taken sick, and dying att Charlestown, thereby occasioning a considerable charge to arise, y^r Petition^r Humbly Prayes that y^r Hon^{rs} Would pity y^e case, and condition of your petition^r; and Ease her of y^e funerall charges of Her s^d Husband, or, of What y^r Hon^{rs} In y^r Wisdome shall think fitt: and as in duty Bound shall pray

ANNA BLANCHARD."— *Mass.*

Archives, vol. 71, p. 1.

With this petition was filed the following account:—

"febr 9th 1703

An acct of What was Expended for y^e funerall of James Blanchard as follows—

	£	s	d
To a winding sheet &c ^t	£00	18	00
To a Coffin 10s: Grave digging 7-6:	£00	17	06
To y ^e bellman	£00	01	00
To y ^e pall,	£00	5	00
To Gloves	£01	01	00
To Wine sugar & spice	£01	5	09
To y ^e Doctr	£00	14	09
To his attendance and necessary Expences in Time of sickness	£ 1	17	05
Sum:	££ 7	00	05.

— *Ibid.*, p. 2.

The resolve on this petition was passed by both branches and consented to by the Governor on the ninth of March.

By the province treasurer's account¶ it appears that the amount allowed by this chapter was duly paid to the widow.

Chap. 89. This chapter is from council records, vol. VIII., p. 26. It has not been found in the archives.

The report of the Justices of the Superior Court of Judicature called for by chapter 47, *ante*, was submitted and read in Council on the seventh** of September, as follows:—

"To his Excellency the Govern^r The Hon^{ble} Council and Representatives in Gen^l Court Assembled the first day of Sept^r Anno Regni Regine Annæ 2^{do}

The Justices of her Maj^{ty}s Superiour Court of Judicature within the Province of the Massachusetts Bay in New England, their Report of the Method of Proceeding in the s^d Court upon appeals from Non-Suits & abatements

May it please yor Excellency,

The s^d Justices humbly render their hearty thanks to yor Excy, and the Hon^{ble} her Maj^{ty}s Council, that you will be pleased to be Informed of the Proceedings in the Superiour Court upon appeals from Non-Suits and abatements by the Justices of the s^d Superiour Court.

* *Mass. Archives*, vol. 122, p. 185.

† Council Records, vol. VIII., p. 28.

‡ Sewall's Diary, vol. 2, p. 96.

§ Note by Mr. Robert Lemon, chief clerk in Her Majesty's State Paper Office, who attested the copies of these records, made for the Commonwealth.

|| For particulars relating to this expedition, see note to chapter 85, *ante*.

¶ *Mass. Archives*, vol. 122, p. 203.

** By the record this date is the eighth; but the original entry on the report shows that it was read the seventh.

And the ^sd Justices humbly crave leave to Observe a few preliminary positions in Order to their reporting the method of proceeding in the ^sd Superiour Court upon appeals from Non-Suits and abatem^{ts}!

1. That Non Suits and abatem^{ts} in the Courts of this province have bin generally (tho not so properly) taken for Synonymous terms.

2. That whenever a Non Suit or abatem^{ts} is in any Court awarded, The Writt in Such action^s by Judgm^t abated, Or the Non Suit or abatem^{ts} is a Judgm^t of Such Court. So my Lord Coke calls it, If a Writt be by Judgm^t abated — and if this Judgm^t — be reversed.

3. That if a Writt be in an Inferiour Court by Judgm^t abated, The Pl^t hath Liberty to appeal from such Judgm^t of the Infer Court to the Superiour Court of Judicature. For the Pl^t is a Party to the Writt, and he may be aggrieved by such Judgm^t ag^t his Writt; and it shalbe in the liberty of the Party aggrieved at the Judgm^t given in any Inferiour Court to appeal therefrom unto the Next Superiour Court of Judicature to be held &c. These are the very Syllables of the act for regulating Tryalls in Civil Causes, made 13 *Gul.* 3.

4. That appeals are accounted to be of the nature of Writs of Errour. This is manifest from the forms of Reasons of appeals, and the answers to them dayly given into the Courts by the Practisers of the Law, and duely allowed by the ^sd Courts. And appeals were Order'd to be so accounted by the Gen^l Court of the Massachusetts Colony 2. 3. 1649. 'It is Ordered by this Court, That all appeals lawfully Obtained, are to be accounted in the Nature of a Writt of Error.'

5. The Superiour Court of Judicature in this Province is not under greater restriction and limitation as to the tryal of Causes, then the Court of Assistants was in the late Colony of the Massachusetts. For if under the present Constituc^on all Civil actions shal be heard & tryed Originally in an Inferiour Court of Common Pleas, Except in Suits where the King is Concerned: Even so all Civil actions under the late Constituc^on, without any Exception, were to be Originally heard and tryed at the County Courts of that Colony. And as the Justices of the ^sd Superiour Court now are to have Cognizance of Civil Causes or actions between Common Persons as they are brought before them by appeals &c, so It was Ordered Anno 1649, That the Court of Assistants shal take Cognizance of no Case or action tryable at any County Court unless it be by way of appeal; Or as it is Express in the Printed Book, The Court of Assistants are to hear & determine all and Onely actions of appeal from Inferiour Courts. p. 36.

6. The Superiour Court of Judic^{at} within this Province hath Cognize of all matters as fully & amply to all intents and purposes whatsoever, as the Courts of Kings Bench, Common Pleas and Exchequer wthin her Maj^{ty}s Kingdom of England have or Ought to have. as appears by an act for establishing a Superi^r Court of Judic^{at} &c wthin this Province, made Anno 12 *Gul.* 3.

The Severall Preliminary Positions afores^d being observed to your Excy and the Hon^{ble} Gen^l Assembly, The ^sd Justices of the Superi^r Court do humbly Inform y^r Excellency and this Hon^{ble} Court of the method of proceeding in the ^sd Superiour Court upon appeals from Non Suits and abatem^{ts} by reporting the severall points resolved by the ^sd Justices at the Last Super Court held in Boston for the County of Suffolk, In an action brought before them by an appeal upon an abatem^{ts} of a Writt by a Judgm^t of the Inferiour Court of Common Pleas. Which cause being the first of that nat^e that the ^sd Justices rememb^r to have bin before them since the Present Constituc^on, They Endeav^rd upon advism^t and mature Considerac^on to resolve these severall points.

Cooper's Case.

1. That the Writt being by Judgm^t in the Inferiour Court abated, the Pl^t had liberty to appeal from the Judgm^t of the ^sd Infer Court to the next Superiour Court within the same county.

2. That the Writt is good notwithstanding what is alledged by the Def^t to abate the said Writt; and the Judgm^t of the Inferiour Court is revers^d!

3. That the Def^t shal plead to Issue, and the Cause proceed to Tryall.

And the ^sd Justices say that this is the method of Proceeding in the like Cases both in the Queens * Bench, (the Powers of which Court are vested in the Superiour Court, By an act of this Province, *ut sup^r.*) and in the Court of Assistants under the Gov^{rn}mt of the late Colony of the Massachusetts.

In the Queens Bench. For this The Incontestable authority of Sr Edw. Co. is in Point. Mag. Car. Cap. 11. *Comunia Placita non Sequantur curiam nostram, Sed teneantur in Certo aliquo Loco.* Upon this Chap^r These are his Words. 'Albeit originally the Kings Bench be restrained by this act to hold Plea of any real action, &c, Yet by a mean they may. As if a Writt in any real action be by Judgm^t abated in the Court of Common Pleas, if this Judgm^t in a Writt of Errour be reversed in the Kings Bench, & the Writt adjudged Good, they shal proceed upon that Writt in the Kings Bench, as the Judges of the Court of Common Pleas should have don, w^{ch} they do in the default of others, for necessity, lest any party that hath Right should be without Remedy, or that there should be a failer of Justice, and therefore Statutes are always so to be Expounded, that there should be no failer of Justice, but rather then that should fall out, that Case by Construction, should be Excepted out of the Statute, whether the Statute be in the Negative or affirmative.' And the same author In the Chapter of the Court of Kings Bench, wherein his busieness is to describe and set forth the Powers of the ^sd court, and what causes matters and things fall wthin its Jurisdiction & Cognizance, thus exp^resseth the method of proceeding in that Court upon a Writt of Errour, of Which nature are appeals here from Non Suits and abatem^{ts}! 'If a Writt in a Real action be abated by Judgm^t in the Court of Common Pleas, and in a Writt of Error the Judgm^t is reversed, and the Writt is adjudged Good, This Court shal proceed upon this Writt, and is not restrained by Magna Carta, *ut Supra, Ne Curia Domini Regis deferret in Justitia exhibenda.*'

Cok. 2. Inst.
Mag. Car.
Cap. 11.

Cok. 4. Inst.
Ch. 7.

In the Court of Assistants under the late Constituc^on of the Colony of the Massachusetts Bay, The magistrates who held that Court had Cognize of appeals from non suits and abatem^{ts} and if in actions of appeal the Judgm^ts of the County Courts were reversed and

the attachm^t Judged good, the s^d Courts proceeded to tryall and gave Judgm^t upon the merits of such Causes. as is most plain by the Precedents in the s^d Courts *vid.* Brattle's Case,* &c.

So that upon the whole matter, It is manifest, that the afores^d Resolucōns are not new, tho' the first, that have bin ruled in the s^d Superiour Court, Since the present Constitucōn. And the afores^d Justices in the Cause afores^d have declared the same Law, where there was the same Reason. And the s^d Justices were obliged to proceed in the method afores^d *Ne Curia Superior deficeret in Justitia exhibenda.*

Yo^r Excellency's Most Humble & Most Obedient Servants

Boston Sept 7^o 1703.

JOHN WALLEY

SAMUEL SEWALL.

JOHN LEVERETT.

JOHN: HATHORNE." — *Mass.*

Archives, vol. 40, p. 777.

By chapter 47, the hearing was continued to the second session, when it was again continued, by force of chapter 56, to the third session, which began on the twenty-seventh of October, and on the thirtieth the petition and report were read. On the sixteenth of November the judges' report was sent to the House of Representatives. On the eighteenth, the Council agreed to enter upon the consideration of the petition the next morning. On the nineteenth a bill relating to appeals from judgments in bar or abatement was introduced in Council, read three times "and debated," but on the next day it was again read, and rejected, "and the heads of a new bill were proposed, and the Secretary ordered to prepare one accordingly." On the twenty-second the Secretary having prepared a new bill, it had its several readings in the Council and by both branches was passed to be engrossed. On the twenty-third a committee of the Council was appointed to bring this bill, with others, before the Governor, for his consent, but two days later it was read again "with some alterations proposed to be made therein," and was voted to be anew drawn accordingly. The draught was prepared, voted and sent to the House for concurrence, but returned on the twenty-sixth with a message from the representatives that they "adhered to their engrossed bill." The Secretary entered upon the bill "nothing acted." On the thirtieth a message was sent from the Council to the representatives "to move that House to a reconsideration of the bill passed by the Council, relating to appeals from judgments in bar or abatement." On the second of December the House voted to concur in the bill as last drawn, and it was passed to be enacted and on the same day was consented to by the Governor.

The bill as first passed to be engrossed differed from the bill finally enacted in having a preamble wherein the purpose was avowed to enforce the observance of "the gradual process in the law," which provided "that all civil actions other than such as are cognizable before a justice of the peace shall be originally heard and tried in an Inferior Court of Common Pleas," etc.; the enacting clause being therefore expressly declaratory, the word "only" was added to the clause requiring pleas in bar and abatement to be originally made in the Common Pleas; the words "session of the" were omitted before "Inferior Court" in the clause requiring the case to be tried on the merits after judgment on appeal in abatement, etc., and "without any delay" omitted after "writ" in the same clause. In the next paragraph "or" was used instead of "and" after "attached;" and in the clause extending the act to appeals from justices of the peace, the phrase used was "like cases of appeal now depending, as also in appeals to be made," etc., instead of the phrase adopted, which did not include pending cases.

As finally amended and enacted, this bill, after providing that all pleas in bar or abatement should be originally made in the Inferior Court, "before any issuable plea made," afforded relief in cases like the one in controversy by enacting that upon reversal of judgment thereon by the appellate court the cause should be sent back to the Inferior Court for trial upon the merits. But neither this act nor any other legislative proceeding operated to stay or change the enforcement of the judgment of the Superior Court in the former action, or to stay the execution in favor of the appellants which had been regularly issued on the thirtieth of June.

Cooper and his wife having succeeded in the courts of law in maintaining her right to one-eighth of the three mills at Centre Haven sought to recover her undivided share in the two mills at Mill Bridge, of John Farnham, who, as tenant to Hutchinson, refused to acknowledge her right. They accordingly brought suit against Farnham, declaring as they had in their action against Stratton and Story, save that they omitted the recital of the devise from Thomas Clarke. The writ was dated August 30, 1703, and was made returnable at the October term of the Court of Common Pleas for Suffolk County, when the parties appeared, and Farnham pleaded in abatement for that the defendant "is a Servant and therefore that a Writ of Trespass and Ejectm^t lyes not against him as such; & for that he can neither give to nor be putt out of the possession by a minor part of the owners or claimers of the premises sued for."†

The judges‡ allowed the defendant's plea, and the writ was abated accordingly. From this judgment the plaintiffs appealed to the Superior Court at the term to be held at Boston on the first Tuesday of November, following. Paul Dudley, who appeared for the appellants, filed their reasons of appeal on the nineteenth of October.

* The case here cited was the appeal of Thomas Brattle, appellant, *versus* Richard Knight, administrator of the estate of John Palne, deceased, and Oliver Purchis. The action which was originally brought in the County Court of Suffolk, April 24, 1677, was upon a bond given by Palne and Purchis to Brattle, the plaintiff. At the trial, Knight objected that as Palne's estate was insolvent and commissioners had been appointed, the action did not lie against him as administrator; and Brattle refusing to proceed against Purchis severally, the court ordered a nonsuit; whereupon the plaintiff appealed to the Court of Assistants. On the fourth of September the Court of Assistants allowed the appeal, and sent the case to the jury, who found for the plaintiff. Thereupon the Court ordered a stay of judgment and execution "until there be an orderly Division of the said estate among the creditors thereto as the law hath provided referring to non solvent estates." — *Records in the office of the clerk of S. J. C., Suffolk, p. 71.*

† Suffolk Court Files.

‡ Elisha Hutchinson, John Foster, Penn Townsend and Jeremiah Dummer.

Omitting the formal and descriptive parts, these reasons were given in as follows: —

"The Appellee being found in y^e present possession or occupation of the premisses sued for is the only person that an Ejectm^t lies against, let his Capacity Be what it will & no Ejectm^t. Can be brought against the Proprietors for the Action is Possessory, and the Rule of law is that the Def^t shall not abate the Pl's writ Unless he Can Assign him a Better . . ." — *Suffolk Court Files*.

To these reasons the appellee made answer as follows: —

"Suffolk ss To the Superiour Court of Judicature to be held at Boston 1st Tuesday 9th 1703

Tho Cooper & Ux ap^ls } The appellees ans^rs to the app^les Reasons of Ap-
" John Farnham ap^lee } peal
& so was the Judgm^t viz^t That the Def^t being a servant a writt of trespass & Ejectm^t dos not ly ag^t him as such, & that he neither can give to, nor be put out of possession by a minor part of the owners, or claimers of the premisses sued for; wch judgm^t is right & ought to be Confirmed

This Case of the mill is like that of a ship, wch are neither of y^m dividable, & 'tis as possible for ye master of the ship, as a miller to give possession, to minor pretended owner or owners, but the P^{ty} claimeing an interest in either can sue nobody for it, but he that hath the reputed p^{re}s^{en}t right or P^{ri}ety in him, for it wou^d be of very ill & pernicious Consequence eit^h to grant or allow, that an accoⁿ can ly^e as this matter is Circumstanced, and therefore the ap^lee doubts not ye former judgm^t will be Confirmed

J^{no} VALENTINE p^{ro} App^lee." — *Ibid*.

The term at which the cause was argued began on the second day of November, but it continued until the fourteenth of December. Meanwhile the act above referred to, went into operation, and no exception being made therein of pending cases, the Court sustained the appeal and remitted the cause to the Court of Common Pleas to be tried on the merits, according to the statute.

The following is the record of this judgment: —

"Suffolk ss — Anno RR^{re} Annæ n^{on}e Angliæ &c^{te} Secundo/ —

At a Superiour Court of Judicature begun & held at Boston for and within the County of Suffolk on Tuesday November the Second Anno; Dom 1703 —

Thomas Cooper of Boston within the County of Suffolk merch^t & Mehetabell his wife appell^s v^s John Farnam of Boston within the County of Suffolk afores^d miller Appellee from the Judgm^t of an Inferiour Court of Common Pleas held at Boston October the fifth 1703 — In a plea of Trespass and Ejectm^t Commenced & prosecuted by the s^d Cooper &c^s against the s^d Farnam for illegally Ent^ring into and withholding the possession of one Eighth part of two Grist Water mills lying & being in Boston at a place known by the name of the mill bridge Together with one Eighth part of all and Singular the Soyle and ground whereon the s^d mills do stand &c^a att which s^d court the writ was abated and the def^t allowed Costs of Suit — After a full hearing of both party's upon the Law made by the General Court at their last october Sessions relating to Appeals from Judgm^{ts} in Barr or abatem^t; the Court is of opinion that there is barr thereby put to the p^{re}s^{en}t process of the Appell^s and that they must take their remedy at the next Inferiour Court in the way prescribed by the s^d Law. and the Court do adjudge the appell^s writ to be good & well brought — Reverse the Judgment of the Inferiour Court and award to the appell^s their full Costs of both Courts." — *Ibid*.

The case was now brought forward in the Court of Common Pleas at the term held on the first Tuesday of January, 1703-4. Hutchinson was permitted to assume the defence in the place of Farnham, and pleaded the general issue. From the following entry in Sewall's Diary it would seem that the case was given to the jury on the seventh of January and that on the eighth, they brought in the same special verdict that had been given by the juries in the former suit between the same parties, but that the bench (Hutchinson himself presiding as chief justice) refused to accept their verdict and sent them out again, and that thereupon they found a verdict for the defendant: —

"Jany 7th Col. Hutchinson's case is put to the Jury of which Mr. Hirst Foreman. Jany 8. They bring in a conditional verdict, If Madam Warren had power to alienat before Division &c. Court would not accept of it; but said that was it they were to Try; and sent them out again: Then they brought in for Col. Hutchinson, costs. Col. Hutchinson said upon the Bench, He would not be Try'd by Infer. or Sup^{or} Court; He would be Try'd by the Jury; they were his Judges." — *Vol. II, p. 92*.

Except when hardened by superstition, Sewall was keenly sensitive to the injustice of oppression in any form, and was outspoken against it. His interest in the case of Saffin's slave Adam, wherein the master sat as a judge, as shown in the note to chapter 8, *ante*, justifies the inference that he is entitled to a full share of responsibility for the decision of a majority of the court against their associate. The present case is another instance of his evident condemnation of a practice which would not now be tolerated; and as late as 1713, when he made his memorable charge to the first grand jury impaneled in the new court-house, after the great fire, he did not omit the injunction "Let never any Judge debauch this Bench, by abiding on it when his own Cause comes under Trial" (*Diary, vol. II, p. 382*). For Hutchinson as well as Saffin it may be urged that in the cases mentioned neither of these judges appeared as a party of record, and that the doctrine was not then obsolete that the bench had no control of the jury, or as Thomas Maule maintained in his famous argument before the Superior Court, that they were "but as clerks," to conclude the verdict "with amen." On the other hand, this does not avail to excuse Hutchinson, since in his case the plea which he sustained in his own interest in the action first brought by Cooper and his wife raised a question of law which did not go to the jury.

The court awarded judgment in conformity with the verdict, and the plaintiffs appealed.

The appeal was to be entered at the next (May) term of the Superior Court, and the appellants' reasons, which were filed April 18, 1704, were as follows:—

"Suffolke ss To the honorable the Justices of her Majties Superior Court of Judicature to be held at Boston for the County aforesaid the first Tuesday of May 1704./

Cooper & <i>ex</i> Appell ^{ts}	} The reasons of Appeal of the Appell ^{ts} from a Judgmt ^t obtained ag ^t them by the Appellee in Her Majties Inferiour Court of Common Pleas held at Boston for the County aforesaid the first Tuesday of January 1703./
Hutchinson <i>ar</i> Appellee	

The Acc^{on} was an Acc^{on} of Trespasse & Ejectm^t brought by the Appell^{ts} against John ffarnam of Boston miller for illegally entering into & refusing to deliver the possession of the one Eighth part of two Grist-Watermills &c scituate in Boston to the plt^s as is sett forth in the Attachm^t Coll Hutchinson Esqr being admitted def^t in the roome of said ffarnam pleaded Not Guilty &c And the Jury found for the Appellee Cost of Court./ where upon Judgmt^t was entred./

Which Judgmt^t the Appell^{ts} say is wrong & erroneous & ought to be reused for that.

/1 The said Judgmt^t ought to have been rendred for the Appell^{ts} ag^t the Appellee & not for the Appellee ag^t the Appell^{ts}/

/2 ffor that Madam Warren had right to alienate her parte of the mills without division first made./

/3 ffor that when the Cause was comitted to the Jury upon the aforesaid Issue the said Jury the first time brought in their verdict in these words or to y^e like Effect that if Madam Warren had power to sell without division first made then they found for the Appell^{ts} otherwise they found for the Appellee which the Appell^{ts} conceive was a good verdict & ought to have been received by the Court it being a mere point of Law & therefore ought to have been determin'd by the Judges & not put to the Jury they being onely Judges of ffact & not of Law but the Jury being sent out by the Court a second time to reconsider the same brought in their verdict for the Appellee Costs of Court./

All which matters & things being duely considered by this honorable Court & gentlemen of the Jury the Appell^{ts} hope they will see just Cause to reverse the former Judgmt^t & grant them their Costs of Courts./

¶ J: HEARNE ¶ Appell^{nts}. — *Suf-*

folk Court Files.

The appellee's answer to these reasons has not been found.

When the case came up in the Superior Court, the issue was submitted to the jury after full hearing of the pleadings and the evidence offered. The jury returned the same special verdict which had been rendered in the court below. Thereupon the judges, applying the law as they understood it, ordered judgment to be entered as follows:—

"It's therefore Considered by the Court That the Inferiour Courts Judgment be & hereby is Reversed and that the s^d Thomas Cooper & Mehetable his Wife shall Recover against the s^d Elisha Hutchinson the Estat Sued for & Cost of Courts Taxed at three pounds one Shilling." — *Records of the Superior Court of Judicature, 1700-1714, fol. 121.*

Execution * issued on the twenty-second of May. The sheriff's return of service was as follows:—

"Suffolk ss Boston May 1704

By Vertue of this Execution I have Levyed it upon one Eighth part of two Grist water mills Lyeing in Boston at or near a place commonly called and knowne by the name of the Mill Bridg[e] together with all the appurtenances thereunto belonging or in any wayes appertaining as withinmentioned and have Delive[red] possession of them to the plt: Mr Thomas Cooper and there yet remains The Costs of Courts and my own fees to Satisfy this Execution
GILES DYER Sheriff." — *Suf-*

folk Court Files.

During these proceedings in the second action, Hutchinson's petition to the General Court was read and the order passed thereon which constitutes this chapter. At that stage, assuming that the recent act was merely declaratory of the law (which it was unsuccessfully attempted to have asserted in the act itself), the final disposition of the case by the Inferior Court, in June, did Hutchinson a wrong for which he was entitled to redress. Accordingly service was made upon Cooper as required in this chapter. This appears by the following entry in the council records, March 16, 1703-4, viz., "The Answer of Thomas Cooper & Mehetable his Wife to the Petition of Elisha Hutchinson Esqr was presented & read."†

Although the Assembly sat until the twenty-fifth of March, and, after prorogation, sat again from the eighteenth to the twenty-first of April, no trace of further action in this matter has been discovered. Before a new Assembly was convened the final decision of the Superior Court had been rendered in the second case, and the execution levied. This was probably accepted as conclusive and the judgment against Hutchinson allowed to stand.

Chap. 90. This chapter is from archives, vol. 11, p. 190. It is recorded in council records, vol. VIII., p. 26.

The petition upon which this chapter was founded is as follows:—

"To his Excellency the Govern^r & Hon'ble Council and the hon'ble hous of Representatives In Generall Cort Convened In y^e session 8. March 1703

* *Habere facias possessionem*, according to the form prescribed in Province Laws, vol. I., 1701-2, chapter 3.

† Manuscript mutilated.

‡ Vol. VIII., p. 29. The answer itself has not been found.

The most humble petition of the Inhabitants of the Town of Dunstable In the County of Midds^{et} &c:
Sheweth,

That was your distressed petitioners, Thro the calamitys of the severall Indian Rebelions & Depredations, are much reduced in our estate & lessned in our Number (notwithstanding the Addition of sundry desirable families, w^{ch} y^r was a prospect of a settled peace) so y^e wee are not capable wholly to support the ministry of the Gospel, after which ark of gods presene our souls lament, & the want w^{ro}of doth more yⁿ all our other great hardships & hazards discourage us, and Threaten the Ruine of this desirable plantation, but the enjoynt of such a rich mercy will animate us still to stand (as wee have long done) in the Front of Danger, Inasmuch also as his Excellency in his great wisdom & providence, for the seerity of this eminently Frontier place & of this part of the provine so much exposed to the Invasion of the bloody salvages hath been pleased to post a considerable force of sold^{rs} the great advantage whereof hath been experienced, in these parts, but They can never heare a sermon without Travailing more then 12. miles from theire principal post which is to y^m no small disco^{agm}! wee are therefore humbly bold to lay before the wise & compassionate consideration of this great & Generall assembly the sorrowfull circumstances of her Maj^{ties} good subj^{ts} in s^d Town, & Do most humbly Implore y^t such a supply may be yielded out of the Treasury of this provine Towards the support of the ministry in Dunstable as to y^{or} great wisdom & candor shall appeare meet, wee being forward, (as in Duty wee are bound) to contribute to such a service for our souls to the uttermost of our ability, & much beyond the proportion of others in greater congregations for y^e maintenance of gods worship among Themselves, And your poor petitioners are the more Encouraged thus to pray in hope, sine y^r former supplications of this kinde, have ever been compassionately regarded & bountifully answered by former great & Generall Assemblies of this provine:

Your obedient & Humble servants

SAMUEL WHITING	} Select men In behalf of the Rest."— <i>Mass.</i>
W ^m TYNG	
JOSEPH BLANCHER	

Archives, vol. 11, p. 190.

The resolve which constitutes this chapter was passed by both branches and consented to by the Governor, March 10, 1703-4.

By the province treasurer's account* it appears that the amount allowed by this chapter was paid to "Jonathan Tyng Esq^r upon the desire of the Selectmen of Dunstable."

Chap. 91. This chapter is from council records, vol. VIII., p. 26, and archives, vol. 111, p. 74.

The petition mentioned in the preamble to this chapter is as follows:—

"To His Excellency Joseph Dudley Esq^r Capt Gen^l & Governor in chiefe of Her Maj^{ties} Provinces of The Massachusetts Bay, & New Hampshire & Vice Adm^l of The Same. And to Her Maj^{ties} Council & representatives, now in Gen^l Court Assembled

The Petition of Susanna Carter Widow

Sheweth—

That Whereas, Y^{or} Petition^r about a year past, had Lycence renewed to retail drink, which accordingly for about two months shee did, but Finding itt did not Answer her Expectation, Shee at y^e end of Two months, wholly Laid itt down, and being Warned at y^e halfe Years end, to pay Excise as Customary. Shee Informed Mr Treasurer of the p^{mi}ses, & prayd an abatem^t might Therefore bee made. Hee said hee Could not make any abatem^t without y^e Consent of y^e Justices.—Y^{or} Petition^rs present Charge, vizt, a Daughter, that is a Widow, and four Orphan Grand Children, whose whole Dependence is on her, & Her Own mean, & Low, Circumstances renders her uncapable of making paym^t—

Shee Therefore prays that s^d Excise may bee wholly remitted, or that Such abatem^t thereof may bee made as Y^{or} Charity shall Judge propper.

And Y^{or} Petition^r shall ever pray &c^a

Boston March 9th 1703/4

SUSANNA CARTER."—*Mass.*

Archives, vol. 111, p. 73.

The resolve which constitutes this chapter was passed by both branches and consented to by the Governor March 10, 1703-4.

Chap. 92. This chapter is from archives, vol. 71, p. 12. It is recorded in council records, vol. VIII., p. 27.

The representatives sent a message March 10, 1703-4, "to acquaint his EX^{cy} that the House had named a Committee with his EX^{cy}'s Leave to go down to the Castle, & inquire into the present State of the Garrison & to report the same.—The Messengers were directed by his EX^{cy} to acquaint the House, that he desired the names of their Committee in writing."†

On the next day the names having been sent to the Governor as requested, the Council added the names of the four members of their Board which appear in the resolve.

Chap. 93. This chapter is from council records, vol. VIII., p. 27. It is preserved in archives, vol. 71, p. 4.

The order which constitutes this chapter was passed in the Council March 11, 1703-4, and sent to the representatives for concurrence. On the thirteenth the House concurred with an amendment by which the last clause, beginning with "the making whereof," was added. On the fourteenth the Council concurred in the amendment and it was consented

* *Mass. Archives*, vol. 122, p. 253.

† *Council Records*, vol. VIII., p. 26.

to by the Governor. The forces for whom these snow-shoes were intended were those recommended to be kept in service by the Governor, by advice of the Council, December 24, 1703, as printed in the note to chapter 85, *ante*.

Chap. 94. This chapter is from archives, vol. 71, p. 5. It is recorded in council records, vol. VIII., p. 29.

The amount of gunpowder bought of Bowditch does not appear, but by a subsequent vote (chapter 107, *post*) enough more was ordered to be purchased to make a total of thirty barrels.

Chap. 95. This chapter is from council records, vol. VIII., p. 29, and archives, vol. 113, p. 361.

The account mentioned in the preamble to this chapter was presented by the town clerk of Boston in behalf of the overseers of the poor and is as follows:—

“Province of the Massachusetts Bay unto y ^e Town of Boston		D ^r
To acct ^d of Disbustments Expended for the Reliefe and support of Prissilla Smart an impotent gerle, driven by the Enemy from Black poynt (at the Eastward) and supported at the charge of the s ^d Town of Boston viz ^t		
from the 1 st of Septem ^r 1703 to y ^e 1 st of Feby ^r following being 5 moneths }		3: 00: 00
at 12/ p ^o m ^o		
Item for a pr ^o of shoes for ditto		0: 4: 0
Item for a Jacoat & makeing		0: 15: 0
Item for two new shifts		0: 9: 0
		<hr/> 4: 8: 0

The Overseers of the Poor of the Town of Boston do Humbly Offer this acct^d to His Excellency the Governor and Councell Praying that the same may be allowed, and that the s^d Charge may be defrayed out of the Province Treasury.

“JOSEPH PROUT Town Clerk.” — *Mass.*

Archives, vol. 113, p. 361.

This account was read in the Council March 14, 1703-4, and sent to the representatives. On the seventeenth the resolve which constitutes this chapter was passed by both branches and consented to by the Governor.

By the province treasurer's account* it appears that the allowance was duly paid to the town treasurer.

Chap. 96. This chapter is from council records, vol. VIII., p. 29, and archives, vol. 111, p. 75.

The petition mentioned in the preamble to this chapter is as follows:—

“To his Excellency Joseph Dudley Esq^r Cap^t General & Governor in Chief in and over her Maj^{ties} Province of the Massachusetts-Bay in New England: The Hon^{ble} her Maj^{ties} Council of the said Province And To the Hon^{ble} House of Representatives convened in General Assembly for the s^d Province.

The Humble Petition of Robert Sanders of Boston in the province afores^d Mariner. Sheweth

That yor^r Petitioner in the year of our Lord 1701. obtained a Licence from her Maj^{ties} Justices of the County of Suffolke in the Province afores^d for Retailing Liquors att his dwelling house near Pools' Wharfe in Boston afores^d. paying after the Rate of Eight pounds p^o annum Excise for his Draught. But now so it is (may it please yor^r Excellency and Honor) That yor^r Petitioner finding that the profit of his Draught would not so much as pay the Excise which was laid upon him, by reason of the deadness of Trade, and for that several others in the neighbourhood had obtained the Like Licence, and yor^r Petitioner having then an opportunity of a Voyage to sea, went and made his application to several of her Maj^{ties} Justices afores^d. Signifying his desire, and desiring their consent to lay down the said Licence for the reasons afores^d. which they readily granted. Whereupon yor^r Petitioner pay'd to the Treasurer Mr James Taylor the sum of four pounds for the half year. Yet the s^d Treasurer Demands of yor^r Petitioner the full sum of Eight pounds, Saying he cannot discharge yor^r Petitioner thereof without an Order from yor^r Excell^{cy}: and Honor:

Yor^r Petitioner therefore humbly prays yor^r Excell^{cy} & honor^s upon a due Consideration of the Premises would please to take such order that yor^r Petitioner may be discharg'd from any farther Payment on account of s^d Licence, as to yor^r Excell^{cy} and Honor^s in your great Wisdom & goodness, shall seem meet.

And yor^r Petitioner as in duty bound shall ever pray. &c

ROBERT SANDERS.” — *Mass.*

Archives, vol. 111, p. 75.

This petition was read, first, in the House March 13, 1703-4. On the fourteenth it was read again and the resolve which constitutes this chapter passed thereon and sent to the Council for concurrence. On the seventeenth it was concurred in and consented to by the Governor.

Chap. 97. This chapter is from council records, vol. VIII., p. 30. It is preserved in archives, vol. 62, p. 154.

The petition mentioned in the preamble to this chapter is as follows:—

“To His Excellency Joseph Dudley Esq^r Cap^t General and Governor in Chief in and over her Maj^{ties} Province of the Massachusetts-Bay in New England and Vice-Admiral of

* *Mass. Archives, vol. 122, p. 200.*

the same The Hon^{ble} her Maj^{ties} Council of the said Province. And to the Hon^{ble} House of Representatives convened in General Assembly for the said Province :

The Humble Petition of Several Gentlemen Merchants and others whose Names are hereto subscribed in behalf of themselves and the rest of the Freighters on the Ship Hopewell.

Sheweth.

That the said Ship Hopewell John Sunderland Master in her late Voyage from Barbados bound to the Port of Boston by reason of a great and violent Storm, and Tempestuous Weather was on or about the twenty ninth day of December last past, (1703) unhappily Cast away upon or near Cape-Cod whereby great part of her Lading was lost, and that which with great Labour, Industry and Charge was, Saved, and brought to Boston very much damaged with Salt-water Leakage &c. So that yo^r Petitioners have Sustained great Loss and damage thereby.

Yo^r Petitioners therefore humbly pray yo^r Excellency and Hon^{ors} : would please to take the premises into yo^r pious Consideration and (in regard of their great Losses as aforesd) to Remit the Customs and duties of said Goods so saved as aforesd :

And yo^r Petitioners as in duty bound shall ever pray &c.

ROBERT CUMBY	SAMUEL LILLIE	ROBERT HOWARD
D WYBORNE	JOHN COLMAN	DAVID JEFFRIES
DAVID FARNUM	GROVE HIRST	BENJ ^A ALFORD
THOS CRISHING	THOS. COOPER	WM HARRIS/—
SAMLL GREENWOOD		ED: NICCOLLS:”— <i>Mass.</i>

Archives, vol. 62, p. 454.

This petition was read, first, in the House, March 14, 1703-4, when the resolve thereon was passed and sent to the Council for concurrence. The vote of the Council was passed on the seventeenth, on which day the representatives passed the following order :—

“In the House of Representatives March 17: 1703

Ordered That the House adhere to their Vote on the other side.

JAM^S CONVERSE Speaker.”— *Ibid.*, p. 455.

The records show no evidence of the rescission of the above order except what may be inferred from the entry in the journals of the Council where the consent of the Governor to the resolve and vote as they are printed is recorded.

Chap. 98. This chapter is from council records, vol. VIII., p. 30, and archives, vol. 71, p. 6.

The petition mentioned in the preamble to this chapter is as follows :—

“To his Excellency Joseph Dndly Esq^r Cap^t General & Gov^r ouer her Majesties province of y^e Massachusetts-bay in New England, & Hon^{ble} Council & Representatives In Gen^rl Court Assembled March y^e 8th 1703/4.

The humble petition of Sam^l Clark of Ipsw^{ch} is as followeth whereas your Seruant was Imprest & Continued a Souldier two years at pemequid Fort : vnder y^e Com^d of Cap^t March & Cap^t Chubb, being engaged with y^e enemy I Received severall wounds, (& had not I bene Rescued I had then lost my life) being thereby dissenabled from helping my self: at w^{ch} Fort I Continued in Great payne & misery about twelue weeks, under y^e hands of a chirurgeon, y^t I thought was very negligent of me but by Gods Good providence I was Removed thence to Boston in y^e moneth of Aprill, & was Cured by doctor Cutler: In August following : I neuer yet moued for, or Recened any smart mony or pension, tho, by s^d wounds I haue euer since bene lame in my hip & thigh & Leg; w^{ch} is now Growne upon me y^t I am not able to attend my Caleing as I haue done since I was wounded; & my labour is with great payne to me & am now in Great fear y^t I shall be utterly dissenabled for y^e mentainance of my wife & family as formerly: As I haue not yet had any Relief from your Hon^{rs} soe I should haue bene thankfull If I had not had occasion to haue petitioned your Hon^{rs} then heretofore since I was wounded: as yo^r Hon^{rs} haue encouraged y^e wounded by a Law w^{ch} many haue had experience of your fauor y^t received wounds & haue bene dissenabled; soe I am y^e more Imboldned to lay my helpless Condition before you, with expectation & hopes of some relief, such as yo^r Hon^{rs} in your prudence shall Judg Connenient for y^e future succo^r of yo^r obedient seruant, who shall for yo^r Hon^{rs} still pray.

SAMUEL CLARK.”— *Mass.*

Archives, vol. 71, p. 6.

This petition was read, first, in the House, on the seventeenth, on which day the resolve which constitutes this chapter was passed by both branches and consented to by the Governor.

By the province treasurer's accounts* it appears that Clark received one payment of two pounds to the “5th of March 1701,” and subsequent payments to 1720, inclusive.

Chap. 99. This chapter is from council records, vol. VIII., p. 31. It has not been found in the archives.

The committee referred to in this vote were appointed by chapter 92, *ante*. Their report has not been discovered.

Chap. 100. This chapter is from archives, vol. 71, p. 7. It is recorded in council records, vol. VIII., p. 31.

All but the last five paragraphs of the resolve which constitutes this chapter were passed in the House March 16, 1703-4, and sent to the Council for concurrence, where “the Premium proposed” was forthwith “agreed to,” and “the other Articles thereof left to Consideration, & Ordered to ly upon the Board.”† On the twentieth the resolve

* *Mass. Archives, vol. 122, p. 255 et seq.*

† *Council Records, vol. VIII., p. 29.*

was again read in Council "and voted" "with an addition made thereto by the representatives," and was consented to by the Governor. The addition referred to was the last five paragraphs,† which originated in the House on the same day.

The only considerable differences between the original resolve and the record are that on the former the word "provided" follows "boats," in the second paragraph; the word "pound" appears in place of "pounds," in the first line, and the word "the" is omitted before "other," in the fourth line of the third paragraph; and the word "river" is omitted after "Merrimac," in the fifth paragraph.

The result of the winter's campaign, described in the note to chapter 85, *ante*, like that of the previous expeditions of this year, was disappointing to the Governor. He therefore determined to inflict upon the enemy more severe and effectual chastisement with a superior force on their own territory, at the same time making all necessary preparations for the defence of the ports of the province, exposed to danger from invasion by sea by reason of the drawing off of so considerable a number of men fit for military duty.

The General Court had been prorogued from the second of December, 1703, to the eighth of March, 1703-4, when it met again, in the fourth session, and on the second day the Governor made a speech in which he addressed the Assembly as follows:—

"Gentlemen
I thought it necessary to see you at this time and to have your advice in the affair of the war that presses hard and the season of the year advancing we may expect the Enemy both upon the frontiers and on the seacoast

I am sorry we have done no more against the Enemy this Winter however the severall Marches that we have made into the woods in the hardest of the Winter has Convinced the Enemy as well as ourselves that English Men can bear the Cold and Travell upon the snow as well as they and I am glad to see the temper and Inclination of her Majesties good subjects so forward and patient of hardship and I heartily thank the Commanders and every party of Volunteers that have so freely vndergone the Travel and difficulty of the service . . .

I most earnestly desire you Gentlemen that you will speedily let me have your advice and assistance in these articles of the war and Treasury which truly Import us to the Last degree as we Love the Honor of the Crown, the English nation and our own Estate and Country and other affayres may be referd to your stated annal assembly now not far off.

And we shall very Much honour our selves and serve her Majesty and promote the Welfare of the province if we shall proceed with all unanimity and freindsip which with the divine blessing is the Strength and procures the success of all Humane affayres."—*Mass. Archives, vol. 108, p. 15.*

In this speech the Governor also made the recommendations in regard to the transportation, by sea, of forces to the coast eastward, and the repair of the lines and batteries before the town of Boston, which are printed in the notes to chapters 112 and 105, *post*, respectively.

Major Benjamin Church having offered his services in a military capacity, his offer was accepted by the Governor, who requested him "to draw a scheme* for the ensuing action or actions," which he did, and was thereupon appointed to the chief command with the commission of colonel, as much perhaps on account of the prospect of accelerating private enlistments by engaging this popular commander, as on account of his superior military genius.

His commission was as follows:—

"JOSEPH DUDLEY Esq; Captain General and Governour in Chief in and over Her Majesty's Provinces of the Massachusetts-Bay & New-Hampshire in New-England in America, and Vice Admiral of the same.

To Benjamin Church Esq; Greeting.

By Virtue of the Power & Authority in & by her Majesty's Royal Commission to me granted I do by these presents, Reposing special Trust and Confidence in your Loyalty, Courage and good Conduct, Constitute and Appoint you to be Colonel of all the Forces raised and to be raised for Her Majesty's Service against the *French & Indian* Enemy and Rebels, that shall be improved in the Service to the *Eastward of Casco-Bay*: And to be Captain of the first Company of the said Forces. You are therefore carefully and diligently to perform the Duty of a Colonel and Captain, by Leading, Ordering & Exercising the said Regiment & Company in Arms, both Inferiour Officers & Souldiers; and to keep them in good Order and Discipline. Hereby commanding them to Obey you as their Colonel and Captain; And with them to do and Execute all acts of hostility against the said Enemy & Rebels. And you are to observe & follow such Orders and Directions as you shall receive from my Self or other your Superiour Officer, according to the Rules & Discipline of War, pursuant to the Trust reposed in you. Given under my Hand & Seal at Arms at Boston the 18th day of March. In the Third Year of Her Majesty's Reign. *Anno Dom. 1703, 3.*

By his Excellency's Command, Isaac Addington Secr.

J. DUDLEY."—*Church's*

History of Eastern Expeditions, vol. II., pp. 136, 137.

The executive records of the council between February 29, 1703-4, and June 6, 1704, being lost, recourse for some particulars relative to the organization, mustering and move-

* Church's scheme, as given in full in his "History of the Eastern Expeditions," edited by Dr. Henry Martyn Dexter (Boston, 1867), p. 131, is dated "February 5, 1703-4;" but this is undoubtedly an error, that being not only during the time when Dudley was directing the winter campaign at Pleasantua, — a circumstance which renders such an interview improbable though not impossible, — but inconsistent with Church's previous statement (p. 128) that the attack on Deerfield (which occurred on the twenty-ninth of February) induced him to make his proposition to the Governor. The Governor's commission to Church, as will be seen, is dated March eighteenth, probably much nearer the actual time of the interview.

† For an account of the embargo mentioned in one of these paragraphs and for measures taken to protect the fisheries see foot-note on page 583, *post*.

ments of the forces authorized by this chapter must be had to the records of the colony of Connecticut and of the province of New Hampshire. By the following extract from the records of the former, it appears that Dudley promptly applied to that colony for a detail of one hundred Indians:—

[March 15, 1703-4.] "Whereas the Govern^r of Boston hath desired to have about one hundred Indians with some English volunteers out of this Colonie to goe against the common enemy at the eastward, which the Govern^r and Councill of this Colonie hath so farre encouraged as to offer to the English volunteers that shall present themselves for said service the usuall wages that our souldiers have, and to the Indians twelve pence p^r day in pay, all which this Court approves of as an addition to the incouragement offered said volunteers by Govern^r Dudley, and desire the Hon^l Govern^r and Councill to see them fitted out with all the speed that may be; their number not to exceed one hundred, of which twelve or more to be English if they can be had; and their charge of fitting out (except provision and ammunition to carry them into the Massachusetts Province) to be paid by said volunteers out of their wages. The officers to be appointed and comissionated by the Govern^r. And it shall be in the power of the Govern^r and Councill, in the intervalles of the Gen^l Assembly, to call home said volunteers from the abovesaid service when they shall see occasion for it. And it is further ordered that if there be not a competent number of English volunteers, viz. the number of ten or twelve to march with the Indians, then it is left with the Hon^l Govern^r to agree with so many as to make up said number upon such encourageing terms as may be thought best. . . .

And it is ordered by this Court that a letter be sent to Coll Patrigg desiring him to give a meeting to those gentlemen appointed by this Court to conferre with them, at a time and place convenient, concerning the improvement of those sixtie men that are appointed to be posted in the townes of Hampshire countie both for garrisoning and scouting, so as they may be most serviceable for the preservation of that countie and this government, and in all things needfull to concert such measures with their chief commanders there as they shall judge for the mutual defence of said countie and this Colonie, and to agree for a proportionable number of men to joyn with ours for our mutuall defence as the Councill of Warre shall direct. And the men appointed by this Court to treat as abovesaid are Mr John Elliott, and Capt. Mathew Allin for the present, and for the future such as the Councill of Warre shall appoint." — *Colonial Records of Connecticut, 1689-1706*, pp. 456-458.

This small contingent arrived, under charge of Major Samuel Mason, about the middle of April, as appears from that portion of Dudley's speech at the beginning of the next session, printed in the note to chapter 119, *post*. See Dudley's letter to Winthrop showing that they were at Newchwannock on the eighteenth and the wants of the unequipped being supplied by Dudley. — Winthrop Papers, part V., p. 191.

March 27, 1704. "The Council, understanding that his Excellency the Governour intends a speedy expedition eastward agst the French and Indian Enemy, and has ordered Major Winthrop Hilton to list a party of Volunteers within this her Majesty's Province for the aforesaid service:

Ordered, that the Secretary give notice with all possible expedition, to Captain Henry Dow, and Capt. Jacob Green of Hampton, that they muster their several Companies under their respective Commands on Monday next, being the third of April, by ten of the clock in the forenoon, and that Major Winthrop Hilton, or such as he shall employ, may have liberty of listing Volunteers for the service aforesaid. And that Capt. John Woodman, Capt. John Tuttle and Capt. John Knight, of Dover, &c. muster their several companies at the Meeting House on Dover Neck on Wednesday, the fifth day of April next, by ten of the clock in the forenoon; and that Capt. John Tuttle be desired then and there to take a list of such as shall enter themselves Volunteers in the service aforesaid, and make return to the Council of his doing therein; And that Capt. John Pickerin and Capt. Tobias Langdon, of Portsmouth, muster their several Companies at Strawberry Bank, on Thursday, the sixth day of April next, in order to list Volunteers under the Command aforementioned. And that Capt. Winthrop Hilton, and Captain Theophilus Dudley muster their several Companies at Exeter, on Thursday, the 28th instant in order for the listing of such Volunteers as will enter themselves under the Command of said Major Hilton for the service aforesaid." — *Provincial Papers of New Hampshire, vol. II.*, pp. 425-427.

More than two weeks before this order of the council, Dudley, in the following letter, had imparted his designs against the enemy to his nephew, Major Winthrop Hilton, and requested him to enlist volunteers:—

"Sr—I intend with the blessing of God to raise a very considerable force to range the Eastern shore to destroy the enemy, and would be ready to march by the last of this instant. If you please to take to your assistance, Gilman and Coffin, my very good officers, and raise me a number of Volunteers to be ready against the time, they shall have all encouragement in the service—ammunition given them and sloops to convey them, and the premium for the enemy destroyed, that the Assembly of this Province have or shall give them. I desire you to proceed with all vigor in the affair, and let me hear from you by every post.

Boston, 12 March, 1703-4

For her Majesty's service.

To Major Hilton, Exeter." — *Ibid.*, p. 426.

I am, Sir, your affectionate Uncle,

J. DUDLEY.

Meanwhile, in Massachusetts, the Governor, dissatisfied at the slow progress of enlistments of volunteers, prorogued the Assembly in order to give the members opportunity to use their personal endeavors to fill up the ranks. The record of the proceedings on this occasion is as follows:—

"March 25, 1704. His Excellency sent a Message to the Representatives, That Mr Speaker & the House forthwith attend him in Council.

And being come, his Excellency intimated, That several Gentlemen feared that notwithstanding the large Premium offered for Volunteers the Number would fall short, Which he desired them to encourage in their several Parts; And therefore had Concluded to make a short Prorogation to see how that Matter would rise, That if it did not obtain, other Measures might be taken: — And accordingly Order'd the Secretary to declare that the present General Assembly be & is hereby prorogued unto Tuesday the eighteenth of April next at nine in the Morning, Which was publish'd accordingly." — *Council Records, vol. VIII., p. 38.*

Upon the reassembling of the General Court the Governor, on the second day of the session (April 19, 1704), addressed them as follows: —

"Gentlemen

Since I saw you last I have used all possible means to Rayse a proper Number of Volunteers for the service upon the Honorable premium you allowed in the Last Session (and I hope you have done the same in the several parts) but without any Considerable appearance and by the Intelligence I have of the Enemy I am assured if wee keep not the warr at a distance they will Employ us nearer home,

I must therefore desire you will have some other Consideration of the matter, if you should see meet to revive the ten pound act made the Last year and allow the Transports, I beleive we might Immediately see a sufficient Number for the Summers Expedition otherwise I must have recourse to the ordinary Method of the Impress Least the summer be lost and the frontiers oppressed.

by the Intelligence I have it is necessary the forces be forth with sent away I shall therefore not trouble you further in this busy season I desire you to admit no private affairs what soever, that the session may have an End in two or three dayes." — *Mass. Archives, vol. 108, p. 17.*

During the vacation the Governor exerted his authority to secure the prompt coöperation of his council of the province of New Hampshire, as appears by the following entry, which also shows the action taken by them: —

April 20, 1704. "His Excellency, Joseph Dudley, Esq. Govern^r &c. his letter of the 15th instant and postscript of the 16th instant, intimating his Excellency being surprised to hear there is noe appearance of Volunteers for the Expedition upon soe honourable a premium offered by the Massachusetts Government, to goe against the French and Indian enemy, &c. desiring every person in his station to put it forward &c. as also that he hath news from Port Royal that the Enemy may be expected the beginning of May, in a great number, directing this Board to be very diligent upon the Frontiers, to Scout &c. was communicated at this Board.

Ordered, that Mr. Secretary write to the several Capt^s of this Province requiring them to call their several companies together on Monday next, and to intimate to them that his Excellency is surprised to heare there is noe appearance of Volunteers, Considering the great premium the Massachusetts Government offers: And that the said Capt^s use their utmost endeavours to procure what Volunteers they can, to goe with all expedition ag^t the French and Indian Enemy, at Port Royal; it being highly reasonable for a proportion of Volunteers to goe out of this Province considering several hundreds are going out of the said Massachusetts Government upon such Expedition; and further, we being covered with a great number of forces out of the same; and this Expedition being forwarded will probably under God, prevent the enemy's attacking us this Summer; and that the several Capt^s make returne of their doings herein to the Secretary by Thursday next at furthest.

Ordered, that the Secretary also write to the several Capt^s of this Province, that all Frontiers be forthwith in Garrison, and that diligent scouting, watching, & warding, at their utmost peril, be constantly and strictly observed and kept upon the Frontier for fear of a speedy attack by the French and Indian Enemy." — *Provincial Papers of New Hampshire, vol. II., pp. 427, 428.*

On the second of May the council of New Hampshire again met and took further measures, of which the following is a record: —

"The several Militia Capt^s of this Province, having appeared at this Board,* (excepting Capt. Dow and Capt. Woodman,) the Council thought meet to acquaint them that considering it was a very troublesome and dangerous time, and the Enemy might be Expected daily upon us, they had therefore called them to attend this Board, and desired them to give this Board their opinion what method was fittest to be taken for the security of the Province, to prevent the public Enemy attacking us by Land or by Sea; and to goe and consult together and deliver their opinion in writing to this Board.

The Major part of the Capt^s present as above, made their returns under their hands, that they knew no better way than watching, warding, scouting, &c. upon all the Frontiers by Sea and Land, &c. as upon file.

Ordered, that three men be forthwith Imprest to keep constant scouting and watching by night, (till further order) — strictly and constantly betwixt Rendezvous point at Little Harbor, and Little Boars Head, for the observing the motion of the Enemy in making any attack upon this Province. And that Thomas Westbrook, of Portsmouth who offers himself to serve her Majesty in scouting and watching betwixt the places abovesaid, be Corporal over the said three men, and that they observe said Westbrook's orders and directions, as the said Thomas Westbrook shall receive from his Excellency our Governour, or the Commander-in-Chief for the time being, from time to time at their peril, and that the Secretary issue forth orders to Capt. Pickerin for impressing one able man out of this Town, and also to Capt. Dow, to impress two men out of Hampton, for the service aforesaid, with provision, Arms and Ammunition for scouting as the Law directs; to be ready on Monday next, at the house of John Fosse's at Sandy Beach, by 12 of the clock at furthest.

* The order for their appearance (on the second of May, at noon) was passed at a council held on the twenty-ninth of April. — *Provincial Papers of New Hampshire, vol. II., p. 430.*

Ordered, that all listed Troopers within y^e Province doe duty in Watching, warding and scouting, in the several Towns they live in; and to be ordered so to doe by the several Capt^s of the Militia Company's in each Town till further order." — *Ibid.*, pp. 430, 431.

This action, and an order on the twelfth for a general fast to be kept on the eighteenth, throughout the province, upon advice of the Governor communicated in his letter of the fifth, were the last public acts of the government of New Hampshire, previous to the departure of the expedition.

Upon receiving his commission Church had immediately set about recruiting within the limits of what was formerly Plymouth Colony. By the fourth of May he received his instructions, as follows:—

"By his Excellency JOSEPH DUDLEY Esq; Captain General and Governour in Chief in and over Her Majesty's Province of the Massachusetts-Bay, &c. in New-England, and Vice Admiral of the same.

Instructions for Colonel Benjamin Church in the present Expedition.

In Pursuance of the Commission given you to take the Chief Command of the Land and Sea Forces by me raised, equipped and set forth on Her Majesties Service, against her open declared Enemies the *French*, and *Indian* Rebels. You are to Observe the following Instructions.

First. You are to take care, That the duties of Religion be attended on board the several Vessels, and in the several Company's under your Command, by daily Prayers unto God, and Reading his holy word; And that the Lords Day be observed & duly Sanctified to the utmost of your power, as far as the circumstances and the necessity of the Service can admit; that so you may have the presence of God with, and obtain His Blessing on your Undertaking.

You are to take care, That your Souldiers have their due allowance of Provisions & other necessaries; That their Arms be well fixt, and kept fit for Service, and that they be furnished with a suitable Quantity of Powder and Ball, and be alwayes in readiness to pass upon duty.

That good Order & Discipline be maintained; And all disorders, drunkenness, prophane Swearing, Cursing, Omission or neglect of Duty, disobedience to Officers, Mutiny, Desertion, and Seditious be duly punished according to the Rules & Articles of War; The which you are, once a Month or oftner, to cause to be published & made known to your Officers and Souldiers for their Observance & Direction in their duty. Let notorious & Capital Offenders be sent away to the next Garisons, there to be Imprisoned until they can be proceeded with.

Let the Sick and wounded be carefully look'd after, and accomodated after the best manner your circumstances will admit of, and be sent either to *Casco Fort*, or to Mr. *Pep-erels* at *Kittery*, which may be easiest, so soon as you can.

You are forthwith to send away the Forces & Stores by the Transports, with the Whale-boats to *Piscataqua*, on *Kittery* side, there to attend your coming; whither you are to follow them with all Expedition.

You are to Embark on the Province Galley, Capt. *Southack* Commander, And let Lieut Col. *Gorham* go on board Capt. *Gallop*; who are both directed to attend your Motion on the *French* side; after which they are to return. Let the Commanders of all the Store Sloops & Transports know that they Sail, Anchor and Serve at your direction.

When you Sail from *Piscataqua*, keep at such distance off the Shoar, that you be not observed by the Enemy to Alarm them. Stop at *Montinicus*, and there Embark the Forces in the Whale-boats for the Main, to range that part of the Country, in search of the Enemy, to Mount *Desart*; sending the Vessels to meet you there; and after having refreshed & recruited your Souldiers, proceed to *Machias*, and from thence to *Passamequado*; And having Effectuated what spoils you possibly may upon the Enemy in those parts, Embark on your Vessels for *Menis* and *Signecto*, touching at *Grand Manan*, if you see cause, and from *Menis* & *Signecto* to *Port Royal Gut*; And use all possible Methods for the burning and destroying of the Enemies Housing, and breaking the Dams of their Corn grounds in the said several places, and make what other Spoils you can upon them, and bring away the Prisoners. In your return call at *Penobscoot*, and do what you can there, and so proceed Westward.

This will probably imploy you a Month or Six Weeks; when you will draw together again, and by the latter end of *June* consider whither you can march to *Norrigueack*, or other parts of their Planting to destroy their Corn & Settlements: And keep the Expedition on foot until the middle of *August* next.

Notwithstanding the particularity of the afore-going Instruction, I lay you under no restraint, because I am well assured of your Courage, Care, Caution and Industry; But refer you to your own Resolves, by the Advice of your Commission Officers, not under the degree of Captain's, and the Sea-Commission Captains (whom you will, as often as you can, Advise with) according to the Intelligence you may receive, or as you may find needful upon the Spot.

You are by every opportunity, and once a Week certainly, by some means, either by way of *Casco*, *Piscataqua*, or otherwise to acquaint me of your proceedings and all occurrences, and what may be further necessary for the Service. And to observe such further & other Instructions as you shall receive from my Self.

As often as you may, Advise with Capt. *Smith* and Capt. *Rogers* Commanders of Her Majesty's Ships.

Let your Minister, Commissary & Surgeons be treated with just respects.

I Pray to God to preserve, prosper and succeed you.

Given under my hand at *Boston*, the Fourth Day of *May*, 1704.

J. DUDLEY." — *Church's*

History of Eastern Expeditions, vol. II., pp. 141-145.

Agreeably to Dudley's orders Church marched his force to Nantasket, and embarked his main body in the transports for *Piscataqua*. Having forwarded his stores, he escorted

the Governor thither overland, enlisting one company of recruits on the way.* On the fifteenth † the expedition sailed from Piscataqua in the transports, Church proceeding in the Province Galley, Captain Cyprian Southack, and Lieutenant-Colonel John Goreham in the brigantine *Adventure*, Captain Joseph Gallop. They were accompanied by the brigantine John and Abiel, Captain Nathaniel Jarvis. Two ships of the royal navy ‡ remained at Piscataqua to follow later, — so as not to draw the attention of the enemy to the movements of the pioneers, — and to rejoin Church at Passamaquoddy.

By the seventh of June he had visited the coast, in whaleboats, from Matinicus (where the fleet came to anchor) as far east as Passamaquoddy, the western harbor of which he entered towards evening. Here he captured some families of the old French settlers and took prisoners or killed others of the enemy, and penetrated the country some miles further north in the hope of engaging a large body of the Indians, who, however, receiving notice of his approach, fled, leaving a great quantity of fish. This he took or destroyed. The ships of war and transports arriving, at this juncture, under orders to proceed to Port Royal, he (when they left) embarked on the John and Abiel for Minas. On the twentieth he drew up and signed on board the *Adventure*, then lying in the channel, a summons to the town of Minas § (now Horton) and to Port Royal, to surrender without delay. This summons was served on Minas the same evening under a flag of truce, and, not being complied with, the town was destroyed by fire the next day, and the enemy routed.

Besides destroying the dikes and buildings along the Minas Basin, he, on the two following days, took possession of two villages besides Minas and destroyed the crops and stores of the enemy there. Meanwhile the ships of war which had proceeded towards Port Royal were overtaken by Church and his men in the transports which had followed Church to take his men on board.

At Port Royal the enemy was found so strongly fortified that it was finally decided, at a council of war, held on board the Province Galley, on the fourth of July, that it was imprudent to attempt to attack their position with the four hundred men which comprised the effective force of the expedition. Church's force therefore proceeded to Chignecto and having despoiled that region sailed back to Mount Desert, by way of Passamaquoddy. At Mount Desert they found that the men-of-war had sailed for Boston, whither Church followed them, stopping at Penobscot and Casco Bay but finding no traces of the enemy there. At the latter place they found, awaiting them, an order from the Governor to dislodge the enemy at Norridgewalk; but this order was disregarded, upon advice of a council of war. Church reached Boston with part of his forces, August 10, 1704.¶ Besides the account given by Penhallow and Niles as above mentioned, the following extract from Dudley's speech to the General Court, August 16, 1704, is perhaps as satisfactory a summary as could be given of the results of this memorable expedition: —

"Gentlemen

Since your Last recess The forces eastward vnder Colonel Church with the Assistance of her majesties shippes have past thro' all the Eastern parts of Lacadie & Nova Scotia and have burnt and Destroyed all the french settlements except The Town of port Royall & Killed their Cattle & broken their dames, & have brought home about 100 prisoners & a good plunder so that I am not sensible There are five houses left in any part of the french settlements out of sight of the fort, nor any manner of support for the Inhabitants which was what we projected in the spring & the forces are returned & Disbanded without the Loss of any more than six men for which we have all reason to render thanks to Almighty god." — *Mass. Archives*, vol. 108, p. 21.

Chap. 102. This chapter is from archives, vol. 71, p. 29. It is recorded in council records, vol. VIII., p. 33.

The resolve which constitutes this chapter originated in the House March 21, 1703-4. On the next day it was concurred in by the Council and consented to by the Governor.

Chap. 103. This chapter is from council records, vol. VIII., p. 34, and archives, vol. 62, p. 460.

The following is the petition mentioned in the preamble to this chapter: —

"To his Excellency Joseph Dudley Esq. capt. General and Gov. in cheif in and over her Maj^{ties} Province of the Massachusetts Bay to the Hon^{ble} Council and house of Representatives in Generall Court convened

The humble Petition of Jno German Chirurgeon

Sheweth

That on or about ye 12th day of August last past yor. Petitionr was commanded by

* Eastern Expeditions, vol. II., p. 145.

† Penhallow, and Niles after him, state that the expedition sailed from Piscataqua on the fifteenth. Dudley, however, in his speech to the General Court, June 1, 1704, declares that it sailed "about ten days since." This discrepancy may be reconciled by supposing that the Governor referred to the departure of the regular ships of war, which, as shown above, were to remain abroad for a short time. Church states that he "requested the commanders of her majesty's ships . . . to tarry at Piscataqua a fortnight." They may have shortened their stay a few days. The following proclamation shows that up to the twelfth of May these ships had not received their complement of men: —

"By His Excy. JOSEPH DUDLEY Esq. Capt. General and Gov. in Chief of the Province of the Mass. Bay.

A PROCLAMATION.

ALL Mariners, Seamen & others, That shall voluntarily enter themselves on board Her Majesties Ship *Jersey*, Capt. *George Rogers* Commander, on Her Majesties Service in the present Expedition, against Her Majesties Enemies, shall be kindly received & well treated during their being abroad, & be paid for their Service on Land: And within the space of Six Weeks or less, be returned again to Boston, Set on Shore and be dismis'd the Service. And the like Encouragement is hereby offered for any to enter on board Her Majesties Ship *Gaspard*, Capt. *Thomas Smith* Commander. Given under my hand at Boston the 12. day of May, In the Third year of Her Majesties Reign. Anno. Dom. 1704.

† The *Gaspard*, Captain Thomas Smith, and the *Jersey*, Captain George Rogers.

§ A similar summons on the twenty-fourth by the officers of the fleet is printed in the "*Collection de Manuscrits*," etc., vol. II., p. 419. He ravaged Menis a second time on his way to Chignecto. See *News-Letter*, Nov. 14 and 16.

his Excellency to repair on board her Majesty's ship the Province Galley commanded by Capt. Cyprian Southack, on board of which Galley & at Casco Bay he hath ever since attended y^e service in matters belonging to his Functions, at Casco Bay on his first arrival there he found nine persons Extremely maim'd & wounded whom by y^e blessing of God on his endeavors, he perfectly cured, and having spent y^e chief part of y^e season in which he should have prepared matters for his home Practise in y^e service of y^e Publick, & did also lose y^e benefit of sundry Patients vnder his care when first commanded to y^e Eastward by his Excy. and y^e Petr. is now again commanded to go in s^d service who is always willing to obey his Excy's commands and to serve the Publick —

May it therefore please yor. Excellency & Honours To Take y^e above petition into yor. due consideration and give such speedy Orders as may be for the satisfaction of yor. Petitioner for his past service & his further Incouragement and since he is again remanded into the service yor. Petr. as in all duty bound will Ever Pray

Boston the 20th day of March 1703/4
Archives, vol. 62, p. 450.

J GERMAN." — *Mass.*

This petition was read, first, in the Council, on the twenty-second and sent to the representatives. On the next day the resolve which constitutes this chapter was passed by both branches and consented to by the Governor.

With the petition German filed the following list of his patients at the fort at Casco Bay, etc., certified by Captain John March: —

"A List of the wounded persons who were under the care of John German Chyrurgeon in Casco Fort.

Major John March	} These belong to Casco fort
Nicos Tucker.	
W ^m Winthworth.	
Joseph Garich.	
Rose Thomas.	
W ^m Webs wife.	
Abigail Viny widow.	
Jabest Sweet.	

Serj. Taylor, belongs to Capt Peares Comp^y

These are to Certifie, whom it may concerne, that John German Chyrurg., who was commanded by his Excellcy in the Galley to Casco fort, did very faithfully and diligently attend his office there, in his applications to sundry maimed and wounded prsons as by the List above appears, who were all cured. And in my humble opinion deserves good Encouragement for his Service. Dated in Casco fort Sept^r 10: 1703.

p^r JOHN MARCH Captn."* — *Ibid.*,
p. 461.

By the province treasurer's account† it appears that the allowance granted by this chapter was paid to German.

Chap. 104. This chapter is from council records, vol. VIII., p. 34, and archives, vol. 71, p. 10.

The following is the petition mentioned in the preamble to this chapter, with a certificate appended, attesting the truth of the allegations therein: —

"To his Exsclency Joseph dudlee Esqr gouener & Comander In Cheff in & ouer her magts^{ies} prouinces of y^e massachusetts & newhampshir — vice admarall of the same —

the humble Adres & petetion of Elizabeth hunewell Relect & wedoe of Richard hunewell deseced of black poynt in y^e prouince of main, —

may it ples youer Exelence It is sposed y^e Endian Enemy killed my s^d husband at black poynt the Last fall past: but in his Liff time about the Leuenth or twelft day of August Last: being all y^e inhabetants & soldiers in s^d blak poynt garrison: & straightened for prouition too or thre Cattel cam nere to s^d garrison Amonghts which was A stear of about three years old of my s^d deseced husbands which was Caught & killed, & spent for suply of the soldiers & Inhabatants: also youer petetioner husband was out Considerabl in bulding s^d garrison mor then all y^e Rest of y^e inhabatants: youer petetioner being now Leftt. A pore wedoe, humbly prays youer Exelene fauer: in this matter & that Liff it may stand with youer Exelence fauer to order, her sum satisfaction for such desburments: whis is y^e humbl request of youer Exelencys most humble & obediante pore Adresor: —

ELEZEBETH HUNEWELL

to the truth of what is exprest in the abouesyd I can gine my guidance —

JOHN WYATT." — *Mass.*

Archives, vol. 71, p. 9.

This petition and certificate were read, first, in the House, March 20, 1703-4, and referred to the standing committee on petitions, who reported as follows: —

"In Answer to This petition the Committee Do propose that There be ffour pounds allowed to the Petitioner out of y^e Province Treasur." — *Ibid.*, p. 10.

On the twenty-third the resolve which constitutes this chapter was passed by both branches and consented to by the Governor.

Chap. 105. This chapter is from archives, vol. 71, p. 30. It is recorded in council records, vol. VIII., p. 34.

In his speech at the beginning of the fourth session of the General Court this year (March 9, 1703-4), the Governor suggested the precaution of repairing the fortifications in and about Boston, as follows: —

"There is also the Consideration of the fortifications of this Town the sent and security

* Major, as a field-officer, but captain of the fort. See chapter 69, *ante*, and note.

† *Mass. Archives, vol. 122, p. 139.*

of our Trade that the Lines before the Town and the batteryes especially that at the North be reformed and repayed Least we be Insulted by the Enemy." — *Mass. Archives*, vol. 108, p. 16.

A resolve had been passed the preceding year, on a similar recommendation by the Governor, to authorize the calling a meeting of the proprietors of the neglected outwharves (described in the note to chapter 6 of the acts of 1772-3*) fronting the cove between the North and South batteryes, in order to raise the means, by tolls or otherwise, for rebuilding and maintaining those dilapidated defensive structures.†

Following the repeated suggestions of the Governor, this year, the Council, March 11, 1703-4, passed "Several Resolves for Encouragem^t of the Repair of" these outwharves "by laying a Toll upon Vessels coming into Harbour there &c"‡ which resolves were sent to the representatives for concurrence.

On the thirteenth the inhabitants of Boston, in town meeting, passed the following vote:—

"Elisha Cook Esqr., Collonoll Elisha Hutchinson, Coll. Pen Townsend, Coll. Thomas Savage & Capt. Timothy Clark, are appointed to be a Committee to view the Fortifications of this Town, and Advise about the repairs thereof, and the Selectmen are to Expend thereon not exceeding the Sum of fifty pounds." — *Town Records*, 1700-1728, p. 31.

This vote was presented to the Council on the following day, read, and sent down to the House by Eliakim Hutchinson, with a message "to desire that House to make some Addition thereto, as also to allow the Disburse of Capt Timothy Clark on the South Battery to the Value of about Twenty Pounds."§

All these legislative proceedings, however, would seem to have been abortive, unless, as is conjectured, the following resolve, passed by the House contemporaneously with this chapter, was advisory, merely, and put in execution as an order of the Commander-in-Chief with the approval of the Legislature:—

"In the House of Representatives March 23: 1703.

Resolved That the Sum of Twenty Shillings P^a ann, be Allowed, and Paid out of the publick Treasury to Capt Timothy Clark, for three years last past, in Consideration of his having had the charge & Custody of Stores of War, belonging to the Province.

Sent up for Concurrence.

JAM^S CONVERSE Speaker—

March. 24th 1703. Read in Council." — *Mass. Archives*, vol. 71, p. 31.

The sentinels employed under the provisions of this chapter were paid agreeably to the resolve of 1704-5, chapter 100; q. v., and the note thereto.

The Sconce, or South Battery, which, besides the purposes of defence, was used for storing powder,|| flanked the "outwharves" on the south, near the foot of Fort Hill. It was reached by a way, still known as Batterymarch Street, leading over the salt marsh near the foot of Milk Street. Its origin is shown in the following report made to the General Court in May, 1666, by a committee appointed by them apparently the year preceding:—

"Wee, the subscribers, being appointed a committee by this honoured Court to view the batteryes lately erected by Major Generall Jⁿo Leueret, wth the advice of the committee of militia in Boston, accordingly attended that service, and vnder the conduct of the said major generall, wee entred a well contrived fort, called Boston Sconce; the artillery therein is of good force & well mounted, the gunner attending the same; the forme thereof suiteable to the place, so as to scower the harbour, to the full length of their shott, every way; it is spacious wthin, that the transe of one gunne will not hinder the others course; and for defence, the foundation is of stone, & well banked wth earth for dulling the shott & hindering execution; finally, wee apprehend it to be the completest worke of that kind which hitherto hath been erected in this country.

To conclude: wee judge the defence to be considerable, & the offence to be avayleable (by Gods blessing) for the thing intended, for w^{ch} the actors & contrivers, whereof Major Generall Leueritt hath bene the cheife, both in contriving, acting, & disbursing, deserves the thanks of this Court, & all due encouragement. Boston Sconce hath nine gunns mounted, & flower more intended, wthout, and seven at Merries Point. All w^{ch} wee submit to the wisdom of this Court, & subscribe ourselves,

Your servants,

GEORGE CORWIN,
WM HATHORN,
FRANCIS WILLOUGHBY,
PETER TILTON,
THO BRADBURY,
EDWARD JOHNSON,
TIMOTHY WHEELER." — *Mass.*

Colony Records, vol. IV., part II., p. 297.

The following is the order of the Court (with the preamble thereto) upon this report:—

"Whereas Major Generall Leueret was appointed by the Generall Court of Election, May the 3^d, 1665, wth the advice of the committee of militia of Boston, to take speciall care for compleating the batteryes at the said toune, & mounting the great artillery, wth all meete provisions for the same, and this Court having requested a committee of sundry gentlemen to view the said batteryes & great artillery, who have made their report that they finde the same to be well & sufficiently repayed, & together with the same, a new battery erected, called the Sconce, scittuated on the south side of Boston, exceedinge all the other batterjes for defence of the toune, & offence against such enemies as may attempt their

* Province Laws, vol. V., p. 262.

† Resolves, 1702-3, chapter 1, and note.

‡ Council Records, vol. VIII., p. 27.

§ *Ibid.*, p. 28.

|| See resolves, 1702, chapter 28, note.

damage, all which, by the order of the militia of the said town, have been effected by the great care, paines, & expences of the above named Major Genl Leneret, —

This Court, considering the premisses, doe desire & order the Govern^r to returne the said major generall the thanks of this Court, & as a gratuity for his care & paines in effecting the same, doe order the Treasurer of the country to pay him out of the next country rate one hundred pounds.

Whereas, in the comission to be granted by law, title Military, sect^d 11, to the militia of Boston, the said militia are to take charge of all fortifications wthin the said town, wth all the amⁿition & ordinance to the same belongin^g, & that by the said comission they are to have in readinesse one barrell of powder, wth twelve shott, & five pound of match, for every sixe peece of ordinance.

It is ordered by this Court, that the survejors ge^{ss} shall deliver to the said com^{it}tee the proportion of ponder, shott, & math, according to the number of gunns mounted in the fortifications of the sd Boston." — *Ibid.*, p. 298.

Chap. 106. This chapter is from council records, vol. VIII., p. 35. It is preserved in archives, vol. 62, p. 466.

The following is the petition mentioned in the preamble to this chapter: —

"To his Excellency Joseph Dudley Esq^r Capt^l General and Govern^r in Chief in and over her Maj^{ties} Province of the Massachusetts Bay in New England and Vice Admiral of the Same. The Hon^{ble} her Maj^{ties} Council of the sd Province And to the Hon^{ble} House of Representatives convened in General Assembly for the said Province.

The Humble Petition of Several Gentlemen Merchants and others whose Names are hereunto subscribed in behalf of themselves and the rest of the ffreighters on the Brigantine named or called the good Intent,

Sheweth

That the said Brigantine whereof John ffoost was Master in her late Voyage from Barbados bound to Boston was on the Tenth day of December last past unhappily Cast away near York, whereby, most of the Lading was lost, and the little that was Saved, very much dammified through Leakage, Salt water &c to the great Loss and Damage of the Petitioners

Yor^e Petitioners therefore humbly pray yor Excellency, and Hono^{rs}. to take the premisses into your pious Consideration and to remit the Customs due for said Goods Saved as afores^d.

And Yor^e Petitioners as in duty bound shall pray &c.

PETER SERGEANT & Comp^{ys}
W^m HARRIS /—
GROVE HIRST." — *Mass.*

Archives, vol. 62, p. 466.

The vote which constitutes this chapter was passed on the day the petition had its first reading in the House; but it was substituted by the Council for the following resolve originally passed by the representatives: —

"In the House of Representatives. March 24: 1703. Read

Resolved That the Praier of the above Petition be Granted, and Order be Given to the Comission^r of Impost accordingly.

Sent up for Concurrence.

JAM^s CONVERSE Speaker." — *Ibid.*

Chap. 107. This chapter is from archives, vol. 71, p. 32. It is recorded in council records, vol. VIII., p. 35.

The order which constitutes this chapter originated in the House on the day of its passage and was consented to by the Governor. By an entry in the accounts* of the province treasurer, it appears that twenty-one and one-half barrels of powder costing three hundred and fifty-nine pounds were purchased and paid for. See note to chapter 94, *ante*.

Chap. 108. This chapter is from archives, vol. 71, p. 35. It is recorded in council records, vol. VIII., p. 35.

The resolve which constitutes this chapter originated in the House on the day of its passage and was consented to by the Governor.

By the province treasurer's account* it appears that the money allowed was paid to Southworth.

Southworth was of Little Compton, where he had been chosen constable and representative. He was brother-in-law and a former neighbor of Major Benjamin Church, a trusty officer, and more than once led a company of volunteers under Church's command.

Chap. 109. This chapter is from council records, vol. VIII., p. 35. It has not been found in the archives.

By the province treasurer's account† it appears that the amount allowed by this chapter is included in the £36 10s. charged as paid to White. See chapters 12, 35 and 72, *ante*.

Chap. 110. This chapter is from council records, vol. VIII., p. 35. It is preserved in archives, vol. 62, p. 458.

The resolve which constitutes this chapter was passed upon the following petition: —

"To his Excellency Joseph Dudley Esq^r Capt^l General and Govern^r in Chief in and over her Maj^{ties} Province of the Massachusetts Bay in New England and Vice Admiral

* *Mass. Archives*, vol. 122, p. 200.

† *Ibid.*, p. 191.

of the Same. And To the Hon^{ble} her Maj^{ties} Council and House of Representatives now in General Assembly convened. March 8th 1703/4.

The Humble Petition of Matthew Carey of Boston. Gent.

Sheweth

That yor^e Petitioner has Served the Crown of England for the Space of Thirty years past, both by Sea and Land, in Several Posts of Honor and Trust and has faithfully discharged the same. And During the last Warr with France has done Considerable service for this Province * — And now yor^e Petitioner for Sixteen Months last past has been Employed as a Waiter to the Impost-Office, wherein yor^e Petitioner likewise has faithfully and honestly performed his Duty and by his great care & Vigilance has been Instrumental in augmenting the Incomes of, and Securing several Pounds to that Office, which otherwise would have been unavoidably lost — and yor^e Petitioner having no Stated Salary, nor knowing not to whom to apply himself, nor what to demand, it being wholly precarious, and yor^e Petitioner having a great family and spending the greatest part of his time about the affairs and business relating to said Office,

Yor^e Petitioner therefore humbly Prays yor^e Excellency & Honor^s: would please to take the Premises into yor^e pious Consideration and (in regard of his former Services, and to encourage his future diligence and fidelity) would please to allow and appoint him such a Competent Salary as to yor^e Excellency and Honor^s: in yor^e great Wisdom and goodness shall seem meet. and likewise direct how and in what manner the same shall be paid —

And shall Pray &c." — *Mass. Archives*, vol. 62, p. 458.

This petition was read, first, in the House, on the twenty-first of March, when the resolve was passed and sent to the Council for concurrence. On the twenty-fourth it was concurred in and consented to by the Governor.

Chap. 111. This chapter is from archives, vol. 71, p. 33. It is recorded in council records, vol. VIII., p. 36.

The "accounts" of Colonel Römer referred to in this chapter, the last of which, by an entry in the journal of the Council, appears to have been presented to that Board and sent to the representatives as early as March 16, 1703-4, have not been discovered, neither has the accompanying "memorial" by him nor the "plan of Casco Fort," both of which are mentioned in the entry aforesaid.

When the results of Römer's management of the fund put at his disposal by chapter 40, *ante*, are compared with his promises, printed in the note to that chapter, it is difficult to reconcile with a belief in the honesty and independence of the General Court their vote of thanks to him and their readiness to approve his accounts, except by the supposition that, perceiving in him those traits which had made Clarke and Brattle unwilling to continue in service with him, they were glad to be rid of this irascible and extravagant servant as quietly as possible and at whatever cost.

Since Römer had been intrusted with the exclusive management of the expenditures on the Castle the records show a growing uneasiness in the House in regard to the manner in which that service was being performed. A committee of the representatives visited Castle Island November 25, 1703, and on the same day the House sent to the Council the following protest: —

"Whereas this Court Pass'd a Resolve at their session in March last, Granting 500^l for the fortifying of Castle-Island, to be Improved for finishing those works, which are most necessary to be done for the present Defence of the same, particularly the Platforms, and Carriages to be done in the first place.

And another Resolve at their session in July last, Granting the sum^m. of 700^l for Discharging the Debts already Contracted in fortifying the said Island, and for the finishing the works thereon agreeable to the Computation of Colo^l Römer Her Majesties Engineer, Dated July 21st 1703.

And whereas both the s^d sums are almost Expended, the Platforms, and Carriages are not yet made, particularly the south East Platform on the Hill, slighted and almost broken up, which seems to be of great Consequence, and the Platform in the south East Bastion of the old works, not laid, altho^{ugh} we were Promiss^d the first £500. should be Improved for that end, nor necessary Lodgings provided for the soldiers, but instead thereof a new Boat, and a House for Entertaining it are built to the Expence of many Pounds, being none of those things Enumerated in the Computation afores^d but very unnecessary, the Castle being before sufficiently provided with Boats.

Resolved That the neglect of the finishing the Works afores^d so necessary for the present Defence, and for which the Grants afores^d were made, and the application, and Expence of the money afores^d to other and unnecessary uses is a Grievance." — *Mass. Archives*, vol. 70, p. 660.

This paper was read in Council on the twenty-sixth, but nothing further appears to have been done.

On the second of December the House renewed their complaint of Römer's management in a declaration, addressed to the Governor, of grievances which they prayed to have redressed. The clauses in this paper which refer to the work and discipline at the Castle are as follows: —

"The Money Last Granted (to ye use of ye Fortification at Castle Isle being 700^l) to be drawne out by Coll. Römer & M^r Brattle for ye finishing of sd Coll. projections then layd before ye Court: m^r Brattle not acceptng y^t betrastm^t this house are at a Loss who shall Informe them of y^e Regular drawing of ye same: or whether any Remayne. This house haueing made Enquiry of ye Comite y^t went to s^d Castle ye 25th Non^{is} Last whether severall of sd Coll. Römers projections were finished, sd Comite Informe y^t severall of y^e same are not yet accomplished; tho, he promissd they should be first done being of Greatest Importance as this house Conceivd at the Granting sd sum. vizt ye platforms

* See foot-note §, vol. VII., pp. 504, 505.

are not yet all repaired nor ye Guns all mounted: The Line of Guns on ye so-east part of ye Island out of Repair: part of ye sd platforme being puid up & ye Guns Remoued: also ye house for Lodging of souldiers not yet made.

We pray y^t Due Care be taken y^t y^e chaplain may Reside at y^e Castle, y^t ye worship of God may be upheld amongst those y^t Continue there, y^t they may daily attend y^e same; & y^t If any neglect ye same such may be animadverted upon.

And y^t not any Pson may be there allowed to sell strong drink for ye Impowerishing; ye parents, masters or families of such as are posted there." — *Ibid.*, p. 666.

This declaration and petition was read in the House on the day it was presented and sent to the Council, where it was immediately read, but no action taken until their next meeting, eleven days later, when it came up for consideration and the Governor proposed that Colonel Römer be served with a copy "and that the same be referred to him to answer."

The second of December was the last day of the session, and, according to custom, the Governor, after signing, in the presence of the Speaker and representatives, who had come up to the council chamber, the several acts of the session which had not previously been approved by him, "acquainted the House that the Money that they had granted to Several Persons & Occasions was agreed to by the Council." * He then replied specifically to certain of their objections, but made no further allusion to the work at the Castle.

The fourth session began March 8, 1703-4, and on the next day Dudley delivered his speech to the Assembly in which he declared "I think there is but a very small Matter remainyng to be done at the Castle the Disburse for which as well as the Generall state of your publiq; accounts I have directed the Treasurer to Lay before you." †

The account thus submitted by the Governor may have been kept with the province treasurer by Zechariah Tuthill, lieutenant of the Castle, to whom money was paid on Römer's account, after Brattle had declined to have further charge of it. It appears that Römer's "account of the disburse of the last grant of seven hundred pounds" was presented to the Council and sent down to the representatives on the sixteenth, as stated in the beginning of this note.

The two hundred and fifty pounds allowed by this chapter is charged as paid to Brattle in the following entry in the province treasurer's account from May 26, 1703, to May 31, 1704:—

"Paid Mr Thomas Brattle for the finishing of the workes of the Fortifications on Castle Island Vizt for makeing y^e Carriages & Platformes necessary, the finishing y^e South East & South West Bastions & for building Lodgings, pursuant to a Grant of the General Assembly at their sessions in March 1703/4 250^u - - -"

— *Ibid.*, vol. 122, p. 187.

See chapter 122, *post*, and resolves, 1704-5, chapters 20 and 24.

Chap. 112. This chapter is from archives, vol. 62, p. 462. It is recorded in council records, vol. VIII., p. 36.

In his speech to the representatives on the second day of the session (March 9, 1703-4) the Governor made the following suggestion as to the need of an enlargement of the military and naval forces of the province:—

"we are now to Look forward and I think it necessary beside the standing forces upon the frontiers especially in the province of Mayn which are necessary to keep off the Impression of the Enemy There will be needfull very speedily a good force of English and Indians with sloopes to attend the Coast Eastward to keep the Indians from the benefit of the sea and Trade with the french which must be soon dispatcht and after that may be drawn together to prevent their planting." — *Mass. Archives*, vol. 108, p. 15.

On the fourteenth the Council sent a message to the representatives to move them "to revive the Bill they offered the last Session for an Establishm^t of the Pay for Vessels taken up for War & Transports & Officers & Mariners Pay." ‡

The order which constitutes this chapter was therefore passed and sent to the Council for concurrence. On the sixteenth the Council referred the order to a committee consisting of John Foster, John Walley, Eliakim Hutchinson and John Higginson. On the next day the committee made the following report, which was read and approved and sent down to the representatives:—

"The comitie unto whome the Bill for Establishments of vessells hire & wages for officers & seamen was Comitted are of opinion that ther should be paid

for open sloops 4/ P tun P month.

for deck vessells from 30 to 50: tuns. 5/ P tun.

Transport Deck vessells from 50 Tun to 100 tun 5/ 6^d P Tun

for vessells taken up for warr

vnder 70 Tuns suitably Guned 6/ 6^d P pr: § Tun P m^o.

from: 70 tun to 120 tuns suitably guned. 8/ P Tun P m^o.

from. 120. Tuns upwards suitably Guned. 10/ P Tun. P m^o.

wages.

Masters of open vessells. 3^u P month.

master of Deck vessells from 30 Tun to 50 Tuns. 3^l 10^s P m^o

masters of Deck. vessells from. 50 tun to a hundred Tuns. 4^l 10^s P m^o.

for warr.

Capts of ships or vessells vnder 70 Tuns: at 5^u P month

Capts. of ships from 70 to 120 Tuns at 6^u P m^o.

Capts: of ships from 120^l § upwards. at 7^u P m^o.

* Council Records, vol. VIII., p. 22.

† *Mass. Archives*, vol. 108, p. 16.

‡ Council Records, vol. VIII., p. 28.

§ *Sic*.

And when any master of an open Sloop or Transport shall cary Souilder & be improued as a steward his wages may be aduanced as y^e Gouverner & Councell shall se meet not exceeding twenty shill^s p^r month.

And that all vessells Improued for y^e publique that shall be taken or Damnfied by the Enimie it shall be made good by the prouince

To officers of Uessells of warr that are under 90 Ton & not less then 50 Ton, And Uessells hyre

To a Captin five pounds p^r m^o

To a Gunner : 50 s^r p^r m^o —

To a Boatswaine 40 s^r p^r m^o —

To a Carpenter — 40 p^r m^o

To the Uessell well fited with guns 7th p^r m^o p^r Tonn." — *Ibid.*, vol. 62, p. 464.

On the twentieth the representatives returned the order as originally drawn "without any Amendment agreeable to the Report of the Committee." The Council thereupon ordered it "to ly upon y^e Board."* On the twenty-second "The Secretary, John Walley & Andrew Belcher Esq^{rs} were sent on a Message to the House to move their further Consideration of the Bill,"† etc.

The House again sent up the bill "with some further addition made thereto." Apparently the alterations were the changing of "forty" to "fifty," in the seventh and ninth lines; correcting a clerical error in the twentieth line; changing "six" to "seven," in the twenty-first line; striking out "mate that is," before "gunner," and substituting "fifty shillings" for "also three pounds," after "gunner," in the thirty-fourth line; substituting "forty" for "five and thirty," after "boatswain," in the thirty-fifth line; and adding the final clause beginning with "and all vessels," in the thirty-seventh line.

Finding the House firm in thus insisting upon the substance of their original draught, the Council, on the twenty-fourth, voted to concur in it, in the form in which it appears in this chapter, and it was consented to by the Governor.

An account of the military and naval expedition under Colonel Benjamin Church, which was the immediate inducement to the passage of this chapter, is given in the note to chapter 100, *ante*. Besides the two ships of the royal navy, the Province Galley, the brigantines John and Abiel,‡ and The Adventure,§ therein mentioned, and the ship Greyhound,§ the following is a list of the vessels employed in the expedition :—

Scout.

Shallop . . .	Phenix	Benjamin Pickman, master.
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Mail-boat.

Sloop . . .	Planter	John Kent, master.
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Transports.

Ketch . . .	Sarah	John Blower, master.
Sloop . . .	Peter	Jonathan Hilton, "
" . . .	Friendship	Nicholas Snow, "
" . . .	Coronation	Benjamin Goold, or Gold, master.
" . . .	Endeavor	Samuel Stephens, master.
" . . .	Trial	John Wells, "
" . . .	Friends' Adventure	Nathaniel Atkins, "
" . . .	Mary	Joseph York, "
" . . .	Adventure	Edward Church, "
" . . .	Hannah and Ruth	William Walters, "
" . . .	Mary	James Gold, "
" . . .	Abigail and Mary	John Cooke, "
" . . .	Eunice	John Cooke, "
" . . .	Falmouth	Richard Carr, "
" . . .	Success	Henry Newman, "
" . . .	Swallow	Jotham Odiorne, "
" . . .	Bonadventure	Jonathan Hart, "

Transports and tenders.

Sloop . . .	Bachelors' Adventure . . .	Samuel Butt, master.
" . . .	Centurion || . . . . .	John Mitchel, "

* Council Records, vol. VIII., p. 32.

† *Ibid.*, p. 34.

‡ By an entry in the province treasurer's account the owners of the John and Abiel appear to have been Nathaniel Jarvis (the captain) and company, and the owners of The Adventure, Henry Franklin and others. — *Mass. Archives*, vol. 122, p. 229.

§ Andrew Willson, commander. Her crew consisted of twenty-four men, and she carried Colonel John Thacher's command, consisting of thirty-six English and nineteen Indians from Barnstable County. As Thacher's force was paid for their service "on board said ship" this vessel must be classed as of the navy.

|| Tender to the Gosport.

Of war.

Sloop	Anne	Ebenezer Coffin, commander. ,
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In addition to the foregoing, thirty-nine whaleboats were taken up for the service, as appears by the following entry : —

"Paid Colo Nathan^l Thomas & Lt Colo Jno Goreham on behalfe of
Several persons for 39. whale boates taken up for her Maj^{ties} ser-
vice in y^e Late Expedition into y^e Bay of Fundey 206,, 16,, 11."
— *Ibid.*, vol. 122, p. 229.

Chap. 113. This chapter is from archives, vol. 47, p. 245. It is minuted in council records, vol. VIII., p. 34.

By the eighteenth article of the royal instructions to Sir William Phips he was required "to take care that drunkenness and debauchery, swearing and blasphemy be severely punished," etc. Substantially the same direction was contained in the twenty-second article of Bellomont's instructions and in the thirty-seventh of Dudley's. Queen Anne's instructions to Dudley were reinforced by her proclamation against profaneness (March 26) which may be seen in the London Gazette. That it was known in New England appears by an entry in Sewall's Diary * under date of December 8, 1702.

Profaneness, it will be remembered, was one of the offences for the suppression of which the clergy had repeatedly memorialized the General Court, and which led to the enactment of chapter 15 of the acts of 1696. See note to resolves, 1696-7, chapter 57.

The declaration which constitutes this chapter was drawn and passed in Council March 23, 1703-4, and sent to the representatives for concurrence. It was concurred in on the following day and signed by the Governor.

Chap. 114. This chapter is from archives, vol. 48, p. 361. It is recorded in council records, vol. VIII., p. 38.

After prorogation of the General Court July 31, 1703, the Governor, apparently in response to his representation of his ill-success in securing the establishment of permanent salaries in conformity to his instructions, received a letter from the queen dated April twentieth, communicating to the Council directly that article of his instructions.

This letter has not been found, but the following copy of the representation of the Lords of Trade, dated April second and approved by the Privy Council on the tenth, is given by Palfrey : —

"As to the Province of the Massachusetts Bay, which is a charter government, the inhabitants have been always averse to any compliance with the directions that have been frequently sent from hence for settling a fixed revenue for the support of that government or the Governor; and upon application made to the Council and Assembly by Colonel Dudley, your Majesty's present Governor, pursuant to your Majesty's instructions to him, they have wholly declined the same, persisting in their usual way of making only temporary provisions for the charge of the government, whereby they have kept your Majesty's Governors there in a continual dependence upon them for voluntary presents, which to the present Governor have been as yet very inconsiderable.

Whereupon we humbly offer that your Majesty would be pleased, by a letter under your royal sign manual, directed to the Council of that Province, to be communicated likewise to the Assembly, to require them that, in consideration of the great privileges they enjoy, they do settle a constant allowance, suitable to the character and dignity of that government, without limitation of time, upon the Governor, together with a fitting provision for the Lieutenant-Governor or Commander-in-chief for the time being; in which letter it may be intimated to them that, if they neglect this opportunity of complying with your Majesty's just expectations, your Majesty will be obliged to have recourse to such remedies as may be proper and effectual in order to a due provision herein." — *Hist. of New England*, vol. IV., pp. 254, 255, note.

This letter the Governor mentioned in his speech to the Assembly on the first of September at the opening of the second session. By the following entries in the council records it will be seen that the letter was first submitted to that Board, and, agreeably to their advice, communicated to the Assembly on the next day : —

"Sept. 1, 1703. Her Majesties Letter of the 8th † of April 1703, directed to the Govern^r & Council was presented by his Excy. & Read at the Board, Containing her Maj^{ties} Commands That it be communicated to the Gen^l Assembly at their first Meeting next after the Receipt thereof, Therein signifying her Royal Will & Pleasure, That in Regard of the great Privileges her Maj^{ties} Subjects in this Province do enjoy, They forthwith settle a constant & fixt Allowance to the Govern^r suitable to the Charecter & Dignity of this Govern^{mt} together with a fitting Provision for the Lient. Govern^r or Commander in Chief for the time being &c." — *Vol. VII.*, p. 430.

"Sept. 2. 1703. Her Majesties Letter read Yesterday at the Board was sent down to the Representatives by James Russel Esq^r." — *Ibid.*, p. 431.

The earliest action of the representatives upon this letter was on the sixth, and is recorded as follows : —

* "Enclos'd the Gazett that had the Queens Proclamation against Profaneness." — *Vol. II.*, p. 69.

† Probably the Secretary's mistake for the twentieth, which was the date of the letter referring to salaries. Possibly the letter which came by the fleet, referring to Pemaquid, was dated the eighth.

"Sept. 6, 1703. A Message was brought up from the Representatives by Mr Jewett, Cpt. Savage & Mr Denison, To Acquaint his Excy. That the House desired That the Consideration of the Matter contained in her Majties Letter referring to Stating a Salary for the Govern^t might * refer'd to an other Session, The House being small & many of their Members absent." — *Ibid.*, p. 432.

This message would seem to have been oral, since, on the next day, the representatives sent a written message to the Council, as follows:—

"Sept. 7, 1703. . . . this House have read & considered her Majesties Letter to his Excy. dated April 20th 1703, Referring to the Settling of a Salary for the Governour &c, But forasmuch as the Members of four entire Counties & also sev^l other Towns are at this Time prevented attending her Majties Service in this House by Reason of y^e Troubles with the Indians & otherwise, Do apprehend it their Duty to defer the further Consideration thereof until a fuller House shall appear." — *Ibid.*

On the ninth the General Court was prorogued to the twenty-seventh of October, without further action upon the subject of the queen's letter.

During the recess the fleet homeward bound from Jamaica (the speedy arrival of which the Governor, in his speech at the beginning of the first session, had mentioned as a reason for hastening his visit to the frontiers) had reached Boston, bringing further orders from the Privy Council.

In his speech at the opening of the third session (Oct. 27, 1703) the Governor, having summoned the House before him, addressed them as follows:—

" . . . I have to Communicate to you her Majesties repeated Command, which I have receiv'd by these shipp's of her Just Expectation that you do settle a salary upon your Governour for his honorable support as you tender her princely regard and favour for you . . ." — *Mass. Archives*, vol. 108, p. 11.

He then directed the Secretary to read the queen's two letters — one requiring fixed salaries for the Governor and the Lieutenant-Governor and the other the building of a fort at Pennaquid,† after which he delivered to the Speaker a copy of his speech and dismissed them.

Having received no response to this communication, on the fourth of November he sent a message to the House, "by John Higginson & Isaac Winslow Esqrs vizt That at the Opening of this Session he had communicated two several Letters from her Majesty, the one relating to Salaries for the Gov^t & other Officers, & the other relating to Pennaquid, which are now lying before that House, & had in his Speech recommended the Consideration thereof, & desired that those Matters might be proceeded upon, & that no Member might be dismiss'd until Answers were made thereto —

The Messengers returned Answer that the House were upon Consideration thereof."‡

Eleven days more elapsed without any responsive communication from the House, when another message was sent to them, by Samuel Sewall and the Secretary, to inquire what they had done "upon consideration of her majesty's commands" contained in the queen's two letters, to which the Speaker answered that "the weather had prevented many of the members coming and that they had not a full house at present but were preparing their answer to those two letters." On the same day Samuel Legg having informed the Governor and Council "that the House of Represent^{es} have addressed her Majesty referring to the Affair of Pennaquid, & that the said Address hath been forwarded by several Conveynances," § it was "Ordered that a Message be sent to the House forthwith to lay a Copy of the said Address before the Board." §

On the sixteenth another message from the Council was sent, in which the return of the two letters from the queen, which had been laid before the House at the beginning of the session, was requested. The House immediately returned the two letters, and on the same day sent up the following message, from which it will be inferred that they had suspected the Governor ¶ of being the instigator of the threat of coercive measures by the Lords of Trade:—

" . . . That this House Prays the Copys of His Excellency's Letters, sent to Whitehall, referring to the affaires of this Province may be laid before them, which His Excellency was Pleas'd at the session of this Court in Cambridge, to say he would favour them with." — *Mass. Archives*, vol. 70, p. 661.

This was followed by an oral message from the House on the same day, which contained no reference to the Governor's salary but was responsive only to the message requesting a copy of the address of the House to the queen. This message the Governor declined to receive, on the ground that being in reply to a written message it should likewise be in writing.

Upon the rejection of this oral message the House sent up a message in writing, relating to the subjects of both the queen's letters, of which the following is the first part:—

* *Sic.*

† Council Records, vol. VIII., p. 5.

‡ See note to chapter 52 of the resolves of 1705-6.

§ *Ibid.*, p. 8.

¶ The files and journals of the Lords of Trade, now open to the public, show that the suspicions of the House were not wholly unfounded. December 10, 1702, while smarting under the rebuff received from the representatives, by whose firm refusal to yield to his request for an increase of salary he had been forced to accept their grant of two hundred pounds less than a week before, as shown in the note to resolves, 1702, chapter 61), Dudley wrote to the Lords of Trade as follows:—

"The figure this government makes is by no means so good as an ordinary head-borough in the kingdom of England, while they are a very important Province, and have the best harbors and outlets to the sea in all North America. The major part of the people by far would rejoice to be annexed, and brought under her Majesty's immediate commission, if her Majesty please so to command. . . . The Council being of the people's election, many of the most loyal people and of the best estates are not employed, and those that are so, many of them are Commonwealth's men, and all do so absolutely depend for their station upon the people that they dare not offend them, and so her Majesty has no manner of service from them." — *Pufrey's Hist. of New England*, vol. IV., p. 252.

"Nov. 16, 1703 . . . May it please your Excellency; In Answer to that part of your Excellency's Speech, referring to settling of perpetual Salaries, & building a Fort at Pemmaquid, *Imprimis*, It hath been the Privilege from Henry the third & confirmed by Edward the first, & in all Reigns unto this Day, granted, & is now allowed to be the just & unquestionable Right of the Subject, to raise when & dispose of how they see Cause, any Sums of money by Consent of Parliament, the which Privilege We her Majesty's Loyal & Dutiful Subjects have lived in the Enjoyment of, & do hope always to enjoy the same, under Our most gracious Queen Ann & Successors, & shall ever endeavour to discharge the Duty incumbent on us; But humbly conceive the Statute of perpetual Salaries not agreeable to her Majesty's Interests in this Province, but prejudicial to her Majesty's good Subjects. . . ." — *Council Records*, vol. VIII., p. 10.

Two days later the Council once more moved the House on the subject of the Governor's salary. The record is as follows:—

"Nov. 18, 1703. Elisha Hutchinson, John Walley, John Foster, Penn Townsend, Daniel Pierce & Edwd Bromfield Esq^{rs} were sent on a Message to the Representatives to move the House to consider of a suitable Allowance to his Excellency the Governour &c." — *Ibid.*, p. 13.

After waiting five days the following entry was made in the records of the Council, which seems to indicate that the House had asked for a reply to their request of the sixteenth, the entry being a sentence in the Governor's speech to the House:—

"Nov. 23, 1703. . . . As to the Houses Motion to see the Copies of his Letters sent to Whitehall referring to the Affairs of this Province, his Answer is, that he made no such Promise . . ." — *Ibid.*, p. 15.

Although the session lasted until the second of December no record of further action on the subject of the governor's salary has been discovered until the last day, when a message was sent down to the House respecting the salaries of the governor and lieutenant-governor, as follows:—

"Dec. 2, 1703. Wait Winthrop, James Russell, John Phillips & Penn Townsend Esq^{rs} were sent on a Message to the Representatives to ask, whether the House had had Consideration of the Message sent them a Fortnight since for a suitable Allowance to be made to his Excellency the Governour & the Lieut Governour." — *Ibid.*, p. 20.

The following is the record of the reply which the House made to this message:—

"Dec. 2, 1703. The Messengers reported that Mr Speaker said, he was instructed by the House to say, They had a Paper of Grievances to send up, & when they were redress'd they would further consider that matter." — *Ibid.*

In his speech at the beginning of the fourth session (March 9, 1703-4), the Governor seems to have studiously avoided any allusion to the subject of permanent salaries, nor has any legislative action upon the subject been discovered until the eighteenth, when the following entry appears:—

"Wait Winthrop, John Hathorne, Elisha Hutchinson, John Foster, John Walley, Isaac Winslow, Ephraim Hunt & Nathanael Payne Esq^{rs} were sent on a Message from the Council to the Representatives, to move the House to a Consideration of an Allowance for the honorable Support of his Excellency the Governour." — *Ibid.*, p. 31.

Upon the last day of the session the following proceedings are recorded:—

"March 25, 1704. A Vote sent up by the Representatives granting an Allowance of two hundred Pounds to his Excellency the Governour for & towards his Support in the Government, being read, The Council express'd themselves not satisfied with the Sum, And desired that all the Gentlemen at the Board that went not on the Message the eighteenth Current, would carry the said Vote back to the House & move their Reconsideration thereof, to Augment the Sum, Also to move their Consideration of an Allowance for the Lieutenant Governour, There being nothing allow'd to him as Captain of the Castle in passing the Muster-Rolls of that Garrison." — *Ibid.*, p. 37.

"March 25, 1704. The Vote of the House for an Allowance to his Excellency was brought up again without any Addition made by the Representatives to the Sum." — *Ibid.*

"March 25, 1704. Andrew Belcher & Samuel Hayman Esq^{rs} were desired to go on a Message to move the House to a further Consideration of the Allowance proposed for his Excellency, . . ." — *Ibid.*

"March 25, 1704. A Message from the Representatives by Mr Blagrove & others, That the Mind of the House had been tried, And they have resolved not to raise any further Money this Session:— And the said Messengers brought up again the Vote for an Allowance to his Excellency without any Addition made to the Sum." — *Ibid.*

Upon the receipt of this last message the resolve as originally drawn was concurred in by the Council and consented to by the Governor.

The executive records of the council, from February 29, 1703-4 to June 6, 1704, are missing, but an entry in the accounts * of the province treasurer shows that the amount allowed by this chapter was duly paid. See note to chapter 46, *ante*.

Chap. 115. This chapter is from council records, vol. VIII., p. 40, and archives, vol. 17, p. 110.

The petition referred to in the preamble to this chapter is as follows:—

"To his Excellency Joseph Dudley Esq^r Captain General and Governour in Chief, The Hon^{ble} Council and Representatives of Her Maty^s Province of the Massachusetts Bay in New England, convened in General Assembly the Eighteenth day of April 1704.—

The Petition of George Waldron and Rachel his Wife Thomas Baker, John Baker, and Henry Bridgham Guardian of Mary Baker Spinster, children, Grand children, and Heires

* Mass. Archives, vol. 122, p. 191.

of Thomas Baker, late of Boston, within the county of Suffolke Blacksmith and Leah his Wife both deceased

Humbly Sheweth

That whereas the s^d Thomas Baker, and Leah his s^d Wife died Seized in Fee, of Several Lands, Tenements, and Hereditaments, lying Situate in Boston afores^d, and else where, which by the Death of the s^d Thomas and Leah, are descended and come to y^{or} Petitioners, as their rightful and Lawful heires. And whereas there are Sundry Debts justly due & Owing from the s^d Estate, which necessarily requires the makeing Sale of some part of the s^d Lands, to rayse money for the payment thereof. And y^{or} Petitioners also Apprehending, that it will be most for their Advantage to dispose of the whole, and have jointly consented and Agreed so to do. But forasmuch as the said Mary being but About Sixteen year old, is not of lawful Age to pass and Execute any Deed or Instrum^t in the Law for the conveying of her part and Interest therein. Altho she is consenting to, And desirous that Sale be made as Aforesaid. —

Y^{or} Petitioners humbly pray, That y^{or} Ex^{ty} and This hon^{ble} General Assembly, will be pleased to Impower the said Henry Bridgham Guardian as afores^d to Act for her the said Mary, and joyne with y^{or} other Petitioners in makeing Sale of the premisses, and to Execute Deeds in her name Accordingly. —

And y^{or} Petitioners as in Duty bound shall ever pray &c

GEORGE WALDRON
her mark
RACHEL R WALDRON
THOMAS BAKER
JOHN BAKER
HENRY BRIDGHAM

I the above named Mary Baker am consenting to the Sale of the premisses above mentioned. And pray the said Henry Bridgham may be Impowered to Act for me therein accordingly. —

Signum

MARY M B BAKER." — *Mass.*

Archives, vol. 17, p. 199.

This petition was read in the Council on the nineteenth and the order which constitutes this chapter was passed thereon and sent to the representatives for concurrence. On the following day the order was concurred in by the House and consented to by the Governor.

The will* of Thomas Baker, ironmonger, dated November 11, 1696, was admitted to probate April 23, 1698,† and letters testamentary were thereupon issued to his son Thomas and to his daughter Rachel, wife of George Waldron. His wife was Leah, daughter of Thomas Clarke, senior. Thomas the son and co-executor died January 10, 1702-3,‡ leaving sons Thomas and John and a minor daughter Mary.

Henry Bridgham was appointed guardian of Mary, October 14, 1703.§ She is described as being then "about fifteen years of age."

Ten days before the passing of the order which constitutes this chapter all the persons interested as above in the real and personal estate of Thomas Clarke had joined in executing an agreement|| for partition and distribution of the said estate, mutually covenanting to forfeit seven hundred pounds in case of failure to fulfil the stipulations agreed upon. It is probable that a doubt as to the power of the guardian of the minor to bind his ward in this manner induced the parties to apply to the General Court for the necessary authority.

The following extracts from conveyances expressly made under the authority of this chapter show the bounds of the several premises conveyed by the grantors, who are described as "George Waldron of Bristol in the county of Bristol within the province of the Massachusetts Bay in New England, blacksmith, and Rachel his wife, the only surviving child of Thomas Baker late of Boston within the county of Suffolk in New England, aforesaid, blacksmith, and Leah his wife, both deceased, Thomas Baker, merchant, John Baker, merchant, Henry Bridgham, tanner, guardian to Mary Baker, spinster, all of Boston (which said Thomas, John, and Mary are the three surviving children of Thomas Baker, deceased, the eldest son of Thomas and Leah Baker, abovenamed)." These deeds also show the consideration paid for the several estates conveyed and the names of the grantees. For the location of these estates, as given after each description, the editor is indebted to Mr. Henry H. Edes.

The first conveyance was to John Mico of Boston, merchant, and was dated Aug. 25, 1704. The consideration was one hundred ninety pounds, "in current money of New England." The estate is described as, —

" . . . All that their Messuage or Tenem^t Land and orchard Situate lying and being at the upper end of School House lane so Called, on the Southerly side thereof in Boston afores^d abutting and fronting Northerly on the said Lane where it measureth in breadth about Sixty Six foot little more or less, Southerly in the rear by the Land of Samuel Sewall Esq^r where it measureth in breadth about Seventy foot little more or less; Easterly bounded by the Land of Elisha Cooke Esq^r and Westerly by the Lands of Arthur Mason Robert Orchard Anne Pollard Widow and others; Measnrng on each of the said two sides in Length or Depth Two hundred ninety five foot little more or less; or howsoever otherwise the same is butted and bounded or reputed to be bounded, late in the Tenure and Occupation of Thomas Baker dece^d (Eldest Son of Thomas and Leah Baker) being, and was formerly parcel of the Estate of Thomas Clark of Boston afores^d Shopkeeper Father of the said Leah Baker, and whereof he dyed Seized, Together with all and Singular

* Suffolk Probate Records, lib. 8, p. 142 (No. 2446).

† He died Jan. 3, 1697-8. Boston Births, etc., Rec. Com. Report, p. 233.

‡ For this date the editor is indebted to Mr. W. H. Whitmore, Commissioner of Records, Boston.

§ Suffolk Probate Files, No. 2835.

|| Suffolk Registry of Deeds, lib. 21, fol. 541.

ye Houses Edifices buildings Trees, and fences thereupon standing rights Members hereditam^{ly} ways Ally's passages waters watercourses profits priviledges Commodities Emolum^{ts} and appar^{ts} whatsoever thereto belonging or in any kind appertaining . . . — *Suffolk Registry of Deeds, lib. 21, fol. 678.*

This estate is included in the present site of the Parker House. It was a part of the original possession of "John Synderland," and lay between that of "Zacheus Bosworth" (which made the southeasterly corner of School and Tremont streets) on the west, and the site of the Boston Public Latin School on the east.

The second conveyance was to John Foster and Andrew Belcher of Boston, "trustees named by Dame Mary Phips, * now Sergeant," and was dated September 8, 1704. The consideration was four hundred pounds in New-England currency. This estate is described as, —

" . . . All that their Messuage or Tenement and Tenements with all the Land yards Gardens backside housing Shops Edifices buildings Slaughter houses Easms^{ts} and fences Standing thereon and thereto belonging & adjoining Scituate standing and being in Boston afores^d in the present tenure and occupation of Thomas Cox Butcher Martha Cox Spinster William Bissick Barber James Jarvis Blacksmith & others Fronting butted and bounded on and by the broad Street, leading from the Town house to the Southerly end of the s^d Town westerly by the housing and Land in the present Tenure and occupation of the widow of Joseph Russell decess^d northerly, by the Land of Anne Hawkins widow, and Mary Savage (late Ofield) Easterly, and by the high way or Lane that leads from the broad Street afores^d to Peter Olivers Dock, commonly so Called; or however otherwise bounded or reputed to be bounded; Measuring in breadth on the afores^d broad Street Seventy one feet and a half; by the housing and Land in the present Tenure and occupation of the widow Russell (sometime the house and Land of Samuel Oliver decess^d) Seventy-Seven feet, measuring along by the house of the s^d Anne Hawkins Twenty one feet, thence along the North end of the s^d house to the Land late of Thomas Ofield Twenty feet; and thence Easterly by the Land of the said Ofield Twenty one feet; and measuring by the afores^d highway or Lane Seventy Six feet and half be the dimentions on either side little more or less: (which housing and Land aforesaid were Sometime the Estate of mr Thomas Oliver of Boston decess^d Together with all and Singular the ways ally's passages waters watercourses" etc. — *Ibid., lib. 22, fol. 33.*

This estate is on the easterly side of Washington Street, and makes the northerly corner of Water Street. Its northern boundary is the lot bequeathed, in 1660, by Henry Webb to Harvard College, and long leased by it to Messrs. Little, Brown & Co., the present tenants. The office of the "Boston Journal" is now (1895) on a part of the estate, while the Fleets (printers) owned, at one time, the part which makes the corner of Water Street.

The third conveyance was dated October 23, 1704. It was by all the above grantors, except Waldron and his wife—they being the grantees named therein. The consideration was fifty pounds, New-England currency, and the premises were described as three undivided fourth parts of, —

" . . . all that certain Close or Pasture Land of the s^d Thomas and Leah Baker, and whereof they dyed Seized, Scituate lying & being at the Lower end of the common or Training Field in Boston abovesaid, butted and bounded on the East by the Land of Edw^d Bromfield Esq^r on the North & West by the s^d Common or Training Field, and on the South by a highway or Lane leading into the s^d Common or however otherwise the same is bounded or reputed to be bounded. Measuring on the Easterly side three hundred feet, on the Northerly side Two hundred Sixty one feet on the westerly side Three hundred Sixty one feet, and on the Southerly side Four hundred Thirty Eight feet or thereabout, be the dimention on either side little more or less Together with the fencing thereon Standing rights members" etc. — *Ibid., fol. 47.*

This close includes the burial ground and deer park at the southerly end of the Common, its frontage being on Frog Lane, now Boylston Street, opposite the old Public Library Building.†

The fourth conveyance was to Nathaniel Byfield of Bristol, and was dated September 29, 1704.‡ The consideration was seventy pounds in New-England currency.

After reciting that, — " . . . Whereas Thomas Clark sometime of Boston afores^d Shopkeeper Father of the said Leah in and by a certain Deed of Gift § bearing date the Twenty Second day of November An^o 1676 . . . Did give and grant unto his Daughter Elizabeth Stevens" in tail " . . . All that his part of the Dwellinghouse and Land thereto belonging late before in the occupation of his Son Thomas Clark, scituate in Boston afores^d butted & bounded East by the street, South by the house and Land of Nathaniel Byfield, West by the Land of the late M^{rs} Minot and North partly by the Land of John Morse and partly by the ¶ of Thomas Bumpstead, and" that "for Default of . . . issue" the said estate "to remain unto the . . . use . . . of the Surviving Children of . . . s^d Thomas Clark the Donor," and that " . . . Whereas the s^d Elizabeth Stevens Departed this Life leaving no issue of her body," so that " . . . the aforementioned House and Land at her decease remained and came unto Thomas Clark, the abovenamed Leah Baker, and Deborah Byfield, the three Surviving Children of Thomas Clark the Donor in Equal thirds and to their heirs respectively forever, which third part of the premises accruing unto the said Leah Baker is by her Death Descended and doth of right belong unto us the said Rachel Walker [Waldron] Thomas Baker John Baker and Mary Baker (in right of our father

* The widow of Sir William Phips. She was married to Peter Sergeant of Boston, October 9, 1701, and died January 20, 1705-6.

† See Shurtleff's Topographical and Historical Description of Boston [third edition], p. 235, et seq.

‡ On which day it appears to have been signed by all the grantors except Waldron and wife, who did not execute it until December 6, 1705.

§ Suffolk Registry of Deeds, lib. 11, fol. 73.

¶ Sic.

Thomas Baker deceased),”* — the grantors convey to said Byfield said one-third of the above-described premises.

This lot is on the westerly side of Washington Street. It is contiguous, on its southern boundary, to the Ames Building on the southwesterly corner of Court and Washington streets.

Mary Baker was married to Jonathan Simpson as early as June 14, 1707. This appears by Simpson's discharge to the guardian on record as of that date.†

Chap. 116. This chapter is from archives, vol. 71, p. 38. It is recorded in council records, vol. VIII., p. 41.

The section of the act ‡ referred to in this chapter applied only to the land forces. The order (chapter 112, *ante*) by which the wages of officers and mariners employed in the naval service of the province were fixed, contained no provision for granting them the benefit of plunder and the proceeds of the sale of prisoners, and offered no bounty for scalps.

In the extract, printed in the note to chapter 100, *ante*, from Dudley's speech to the General Assembly on the second day of the fifth session (April 19, 1704), it appears that he recommended the revival and further continuance of the extra inducement to volunteers enlisting for the autumn campaign. The act by its own limitation would expire at the end of the next May session; but it had been continued by chapter 100 to the last day of November, following. This resolve, however, had expressly excepted from the “encouragement” offered by the act “such as embark upon any expedition in vessels,” etc.

On the same day that the Governor delivered his speech, the representatives prepared, passed, and sent to the Council, for concurrence, the resolve which constitutes this chapter, the purpose of which was to repeal the excepting clause and, by an express declaration, to remove any doubt as to the right of the naval forces to claim, equally with the land forces, the benefit of the second section of the act. On the twentieth it was concurred in, and consented to by the Governor.

Chap. 117. This chapter is from archives, vol. 15 A, p. 14. Council records, VIII., 41.

Besides the captives expected to be brought in by Colonel Church's forces and those Frenchmen who had been captured in previous encounters, and who were either prisoners or domiciled residents in the province, perhaps the sudden accession of Frenchmen, shown by the following entry in Sewall's Diary, accounts for the summary and strict precautions provided by this resolve against treachery on the eve of the great expedition which was planning with the utmost secrecy in order to surprise the enemy:—

“April, 10. 1704. The Seven and Thirty French privateers are brought to Town, who were put a-Shore at Marshfield last Friday in the vehemency of the Storm.”—*Vol. II., p. 99.*

Penhallow, whose account of these privateers is given below, and Niles, who seems to have followed him, give their number as *twenty-seven*; but Sewall, who was on the spot, is more likely to have stated the number correctly:—

“While the Indians by land were every day distressing of us, the French by sea were as industrious to impoverish us.

April 7th, 1704, they fitted out a privateer shallop with twenty seven men, to intercept our southern trade as they came laden with provisions; which if they had succeeded in, would not only have supplied their own indigent forces, but the Indians also; (who were then forming a desperate design against us) but through the favor of God to us, they were cast way on Plymouth shore.”—*Indian Wars, p. 25.* See, also, Niles's History of the Indian and French Wars, p. 254, and Palfrey's History of New England, vol. IV., p. 265.

An order § in the very language of the memorial is recorded as having been passed on the same day and consented to by the Governor.

See, further, resolves, 1704-5, chapter 25 and note.

Chap. 118. This chapter is from archives, vol. 71, p. 42. It is recorded in council records, vol. VIII., p. 41.

This is the first legislative order relating to the works on Castle Island that has been discovered since Brattle and Clarke were reinstated in their superintendency, upon the retirement of Römer, as related in the note to chapter 111, *ante*. The representation mentioned in the preamble to this chapter has not been discovered. The order originated in the House on the day of its passage, and was immediately consented to by the Governor.

Chap. 119. This chapter is from archives, vol. 71, p. 41. It is recorded in council records, vol. VIII., p. 42.

The resolve which constitutes this chapter and which originated in the House and was consented to by the Governor on the day of its passage was passed upon the following recommendation by Dudley in his speech to the Assembly at the beginning of this session (April 19, 1704):—

“I have the Last week from the Government of Connecticut 100 ¶ Indians under the Care of Major Mason who serve upon the forty pound a head, I shall post them in the province of Mayn as Conveniently as I cau to Cover those towns and Desire you will have a Just

* Suffolk Registry of Deeds, lib. 22, fol. 405-407.

† Suffolk Probate Files, No. 2835.

‡ Province Laws, 1703-4, chapter 6.

§ Council Records, vol. VIII., p. 41.

¶ Though Dudley thus affirms that he received the whole number of men called for, Penhallow makes the contingent a little smaller, and gives further particulars as follows:—

“As the spring advanced, it was thought necessary to guard the frontiers with fresh troops, upon which, Major Mason with ninety five of the Pequod, and Mohegan Indians, were posted at Berwick, who at first were very terrifying to the enemy.”—*Indian Wars, p. 26.*

Consideration of Major Masons service upon whom those Indians do absolutely depend. . . . — *Mass. Archives*, vol. 108, p. 17.

The action of the Connecticut legislature upon Dudley's application for this force is given in the note to chapter 100, *ante*.

The following is the authorization of a warrant for paying the money allowed by this resolve:—

"July 24, 1704. Pursuant to a resolve pass'd by the General Assembly at their session begun the 18th of April in this present year 1704

Advised and Consented. That a Warrant be made out to Mr Treasurer to pay the sum of twenty pounds to Simcon Stoddard Esqre and Elias Heath Merchant on behalfe of Major Samuel Mason (and at his desire) for his good service in disposing and conducting the Connecticut Forces into her Maj^y's service within this Province." — *Executive Records of the Council*, vol. 4, p. 49.

Apparently there was no "wine" in the province treasury, since the entry of payment to Stoddard and Heath in the treasurer's account* is for twenty pounds only.

Chap. 120. This chapter is from archives, vol. 101, p. 258. It is recorded in council records, vol. VIII., p. 42.

The bills of credit to which this order applies were those the printing and emission of which were authorized by the act of 1703-4, chapter 16. This act required "the committee formerly named and appointed,"† "they or any three of them," to prepare these bills and deliver them to the province treasurer. The bills were to be "of the form and tenor by law prescribed." The act of 1702, chapter 8, had prescribed that the bills issued under that act should be "in suitable sums from two shillings to five pounds." No change in the proportions of the different denominations was made by the resolve, chapter 22, *ante*, for a new emission, nor by chapter 3 of the acts of this year ratifying the provisions of that resolve. The preamble to the order which constitutes this chapter indicates that the public had begun to feel the inconvenience of a dearth of small change, which had been driven out of circulation by the increase of paper money, and that therefore the need of a large proportion of small bills as a substitute for small coin was urgent. It was consented to by the Governor on the day of its passage.

Chap. 121. This chapter is from archives, vol. 30, p. 493. It is recorded in council records, vol. VIII., p. 43.

In the official record of the proceedings which are given in this chapter some important details that appear in the original paper in the archives are omitted, but it shows the consent of the Governor.

By acts‡ passed in 1694, 1695 and 1697, the friendly Indians had been restricted to certain territorial limits under severe penalties for transgressing the prescribed bounds, and by the act of 1695-6, chapter 3, the Governor and Council were empowered "to prescribe such limitations, and appoint such place and places for the residence of the Indians of the several plantations of Natick, Hassanamiscox, Kekamoochock and others, and to put them under such inspection and regulations, as they shall think fit." These acts, however, were temporary and had expired when all apprehension of danger from the communication of intelligence to the enemy was past, upon the cessation of hostilities in King William's war.

The purpose of the order which constitutes this chapter was evidently to prevent intelligence being conveyed to the enemy, of the progress of the contemplated expedition under Colonel Church. From the following entry it would seem that some of the Indians in that expedition had been drafted into the service from Natick and Puncapoag:—

"Ang. 9, 1705. An Accompt was presented by John Leverett Esqre of service done by sundry persons on several Journy's to Natick & Puncapoag, and marching of several partys of Indians drawn for her Maj^y's service by his Excellency's order, and for Corne supplied to the sd Indians Anno 1704 and in this present year, amounting in the whole to eight pounds and three pence, examined by Mr Commissary General, was presented. And.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the above sum of eight pounds and three pence to the said Mr Leverett on behalfe of the persons respectively in the said accompt named." — *Executive Records of the Council*, vol. 4, p. 208.

As a rule, the Indians did not look upon military service as a hardship, but that the friendly Indians could not be depended upon by the whites as cordial allies in contests with other aborigines had been proved by experience in King Philip's war; and in the present instance neither the drafted red men nor their brethren on the plantations could regard with satisfaction the superior compensation offered to the white volunteers in the expedition.

As the following extracts show, the provisions of this chapter were put in force in 1706 and again in 1708:—

"In the House of Representatives July 13: § 1706.

Ordered That His Excellency the Governour be Desired, to Restraine the friend Indians, according to the Order of this Court pass'd the 21th day of April 1704,

Sent up for Concurrence
Archives, vol. 31, p. 12.

THOMAS OAKES Speaker." — *Mass.*

* *Mass. Archives*, vol. 122, p. 232.

† The names of the committee are given in the note to chapter 8 of the acts of 1702, and the same committee was retained by resolve, chapter 48, *ante*, which was virtually sanctioned by the act of 1703-4, chapter 3, § 5. Their compensation was fixed by the act, 1703-4, chapter 10, § 2.

‡ Province Laws, 1694-5, chapter 10, 1695-6, chapters 3 and 14, and 1697, chapter 12.

§ The original order is endorsed "12th July," although, on its face, it is dated as above. The former date agrees with the statement in the preamble of the order which provides for subsistence money.

"July. 12th 1706. The Friend Indians of Natick Puncapoag and Hassanamisco, being by his Excellency's order; at the Desire of this House, strictly confined to their several Plantations during the present Hurry and Danger.

Ordered, That the Treasurer do Advance so much as the Governor & Council shall Direct, for their necessary Substantance, by the Space of one month next coming to be put into the hands of John Leverett Esq^r to be proportioned and distributed amongst them." — *Ibid.*, p. 11.

"In the House of Representatives. Octo^r 22th 1708

This House being Informed, That the friend Indians Do still Presume, to Travel into the Woods, & amongst the frontier Towns, contrary to the Order of this Court whereby her Maj^{ties} Subjects, are put in Terror, & the Lives of the s^d Indians, Endangered.

Resolved That the Order of this Court Pass'd the 21: of April 1704, for their Restraint, be Revived & effectually Care Taken, that It be duly Executed.

Sent up for Concurrence

THOMAS OLIVER Speaker

Die p^{dict}. In Council.

Read, & the order Read, and being made without Limitation, thought nothing further needful, than to refresh the notice thereof." — *Ibid.*, p. 53.

Chap. 122. This chapter is from council records, vol. VIII., p. 43, and archives, vol. 71, p. 40.

The "remonstrance" of the irrepressible Colonel which led to the order which constitutes this chapter was as follows:—

"To his Excellency Joseph Dudley Esq^r Captⁿ Generall and Gov^r. in cheif in and over her Maj^{ties} Province of the Massachusetts Bay in New England &c^a. and to the Hon^{ble} Council and house of Representatives—

The Remonstrance of Col^{le} Wolfgang William Romer cheif Engineer in her Maj^{ties} continent of America—

Humbly acquaints Yo^r Hon^{rs} That th^o the very last session of this great and Generall Assembly you were pleased justly to allow of your Remonstrants accounts of the Experiences in the service of this Province at the Castle*—

Yet so it is That yo^r Remonstrant vpon perusal of some papers finds that the accounts of particular persons contained in one Generall Article of yo^r Grand Acco^{ts} are Liable to sundry objections by reason of some vnjust & vnreasonable charges which he is ready to make Appear, to a comitee that may be appointed for that purpose; That Many of the s^d persons are clamorous vpon him and Threaten to arrest him for their severall Debts—

He therefore humbly desires the s^d persons may be sent for, & assured of their paym^t. of what is justly due That yo^r Remonstr^t be not Further Troubled therewith—

Boston April y^e 20: -1704.

WOLFGANG W^m RÖMER." — *Mass.*

Archives, vol. 71, p. 39.

The progress of the order is shown on its face as printed. The Governor signified his consent the same day.

No report of the committee named in this chapter has been discovered; but from the following items in the accounts of the province treasurer—the former being an acknowledgment (probably authoritative), in his statement of the liabilities of the Province, of the charges approved by Römer—it appears that the article in Römer's "grand account," which was objected to by certain creditors, was adjusted to the satisfaction of the Assembly, and payment made accordingly:—

"1704.

June. 1 An Accompt of the Present State of the Treasury . . . Dr

Due to Several P^{ers}ons for Materials & workmanship at y^e Castle in

Coll: Romors time y^e Acco^{ts} being inspected into by y^e Gen^l Assembly 315^l 11^s 11^d."

— *Ibid.*, vol. 122, p. 207.

"Paid unto y^e Hon^{ble} Tho^s Povey Esq^r Command^r of her Maj^{ties} Castle

on behalfe of Several persons for Materials & necessary's Supplied to

s^d Castle 315^l 4^s 11^d."

— *Ibid.*, p. 225.

Chap. 123. This chapter is from archives, vol. 71, p. 43. It is recorded in council records, vol. VIII., p. 43.

The "mortar-pieces" and "shells" mentioned in this chapter were undoubtedly the same that Church thus describes as having seen on Boston Common:—

"He [Church] happening one day to be at Capt. *Belchers*, where his Excellency happened to come; who was pleased to order Col. *Church* to put on his Sword, and walk with him up the Common; which he readily complied with: where being come, he saw two Mortar pieces with Shells, and an Engineer trying with them, to throw a Shell from them to any spot of ground where he said it should fall: Which when Col. *Church* had seen done, gave him great encouragement & hopes that it would promote their going to *Port Royal*, which he had solicited for; and returning from thence after they had seen them try'd by the said Engineer, and performing what was proposed. Coming near to Capt. *William Clarks* house over against the Horse-shoe, his Excellency was invited by Capt. *Clark* to walk over and take a Glass of Wine; which he was pleased to accept of, and took Col. *Church* with him; and in the time they were taking a Glass of Wine, Col. *Church* once more presumed to say to his Excellency; Sir, I hope that now we shall go to *Port Royal* in order to take it; those Mortars being very suitable for such an Enterprize. His Excellency was pleas'd to reply; Col. *Church* you must say no more of that matter, for the Letter I told you of I writ by the advice of her Majesty's Council, now lyes at home on

the board before the Lords Commissioners of her Majesty's foreign Plantations, &c." — *Church's History of Eastern Expeditions*, vol. II., pp. 140-141.

The account which Taylor sent in against the committee is made out in the name of James Taylor and Company, and is signed James Taylor, junior. Probably the mortars and shells were cast at the iron works in Lynn — Taylor having purchased those works in 1688 of Mr. Samuel Appleton, for five hundred * pounds, and presumably he continued to carry on the business of smelting ore, and founding. See the note to resolve, 1704-5, chapter 1.

The order which constitutes this chapter and which originated in the House was passed by both branches and consented to by the Governor on the same day.

See resolves, 1704-5, chapter 49.

Chap. 124. This chapter is from council records, vol. VIII., p. 37. It has not been found in the archives.

The same reasons exist for including this message among the resolves of the General Court as for inserting among the resolves of the year 1700-1, chapter 103 of that year. Although no action of the Council upon this motion of the representatives appears in the record of either this or the preceding session it is certain that a proclamation, bearing upon its face the evidence that it was advised and consented to by the Council, was issued on the twenty-seventh of April. The executive records of the council are missing for a period covering both sessions; hence the date of the action of the Board must be determined by external evidence. The proclamation was not issued until after the Legislature had been prorogued, and but for the fact that the following draught of an order by the House, dated the twentieth of April, remains in the archives, any time during either session, after the reception of the first message, might be assigned for the concurrence of the Council:—

"Thursday April 20th 1704 A:M:—

Ordered, That the Committee last named go up with a message to the Board and move that a day of Publick fasting and prayer be appointed thro' the Province on the Various Occasions of it particularly for a Blessing on our Endeavours to Suppress our Enemies and Defend our Selves And for a blessing on the Rising Year." — *Mass. Archives*, vol. II., p. 191.

This second message implies that at its date the House had received no response to the former message, and warrants the inference that the Council concurred on that or the following day; most likely the latter, it being the last day of the session.†

The proclamation is printed, in full, below:—

"By His Excellency JOSEPH DUDLEY Esq. Captain General and Governour in Chief, in and over Her Majesties Province of the *Massachusetts-Bay in New-England*.

A PROCLAMATION for a General FAST.

Upon Consideration of the troublesome State of Europe, by reason of the Calamitous Wars wherein those Nations are Engaged amongst themselves, and of Her Majesties Great and Just Interest therein: As also the present Circumstances of these Her Majesties Territories and Plantations, And the Influences which the Wars of Europe may have upon our selves; Together with the Hostilities acted against us by the treacherous Murderous Salvages within our own Limits.

I have thought fit, by and with the Advice of Her Majesties Council, and at the desire of the Representatives, to Appoint Thursday, the 18th. of May next, A Day of Publick Fasting with Prayer, to be Observed throughout this Province; Humbly to Implore the Divine Mercy, for the Preservation of Her Majesties Sacred Person, That Her just Armes with those of Her Allies may be prosperous in the Actions of this present Year; That the Forces in this Province Employed in Her Majesties Service, may by the good Conduct of Heaven, be Succeeded in their just Enterprizes, and our Enemies Defeated; That the Defence of Divine Protection may be over our Sea Coast and Inland Frontiers; That our Seed-time and Harvest, may be under benign Influences of Heaven; That there may be a plentiful Effusion of the Holy Spirit of GOD, for a thorough Reformation of all those Evils which are amongst us, That so GOD may turn away His Anger, and Restore unto us a prosperous State; And that the Protestant Interest may every where prevail throughout the World. Exhorting both Ministers and People in their respective Assemblies Religiously to perform the Duties required on such a Day, with a becoming Devotion: And all Servile Labour is forbidden thereupon.

Given at Boston the 27th. Day of April 1704. In the Third Year of Her Majesties Reign.

By Order of His Excellency and Council,

J. DUDLEY.

Isaac Addington Secr.

GOD Save the Queen." — *The Boston News-Letter*, No. 3.

1704-5.

Chap. 1. This chapter is from archives, vol. 71, p. 53. It is recorded in council records, vol. VIII., p. 49.

The vote which constitutes this chapter originated in the Council and was based upon the following estimate or proposal by an enterprising merchant of Boston, son of Reverend William Hubbard of Ipswich:—

"It haneing bene Proposed to me by the Hono^d Coll. Hutchinson & Capt^y Belcher. to make some shells for mortars.

* Lewis's History of Lynn, p. 134.

† It will be remembered that Dudley did not suggest to his council in New Hampshire the proclaiming such a fast until the fifth of May. See note to chapter 100, ante, p. 331.

‡ Sic.

on the termes following they may be done. Vizt. thirty shillings ʒ hundred for the shells & moulds: provided I may have an order for the obtaining Henry Despard, for the workman for making of them, & some other hands if there be occasion

June ye 1st— 1704. —

JNO^s HUBBARD." — *Mass.*

Archives, vol. 71, p. 53.

Hubbard was the proprietor of the iron works at Braintree, having purchased two thousand four hundred acres of land belonging to the works in 1682 of Captain Ephraim Savage of Boston for five hundred pounds.* It may be surmised as probable that his offer to furnish these shells was at a much lower rate than had been paid by the province to Taylor,† although it is impossible to ascertain this from Taylor's account in which the prices of the mortars and shells are not separately stated. Henry Despard, for whose services Hubbard stipulated, was evidently the same inhabitant of Lynn who is called "Dispaw" by Felt and the historians of Lynn.‡ The name has a French sound, and it is not unlikely that he was a foreman or skilled workman at the Lynn iron works, of which Taylor and Company were the proprietors. There were many deposits in the province of iron ore, chiefly nodules of hematite known as bog ore, besides those in Lynn, and a considerable business of smelting had been carried on elsewhere, as at Braintree and Taunton.

Chap. 2. This chapter is from council records, vol. VIII., p. 49. It has not been found in the archives.

The "accounts" [account] referred to in this chapter have not been discovered, although they properly belong to the state archives. The following is the order in Council for the issuing a warrant for payment of this allowance which the province treasurer's account § shows to have been paid accordingly:—

"July 7, 1704. To Captⁿ George Turfrey one hundred sixty four ponn^{ds}. one shilling and five pence, in full of his account of repairs and worke done to her Maj^{ty's} Fort Mary at Saco, by order of Council of August 7th 1701." — *Executive Records of the Council*, vol. 4, p. 39.

Turfrey was appointed captain of Fort Mary at Saco to succeed Captain John Hill. This being a military commission it is not preserved in the legislative archives; but his instructions in regard to trading with the Indians are recorded in the executive records of the council as follows:—

"April 8, 1700. Instructions for Mr George Turfrey, appointed by His Excellency to be Captain of his Maj^{ty's} Fort Mary at Saco in the room of Captⁿ Hill, who has prayed a dismission from that Post, relating to the said Turfrey's managing of Trade with the Indians were read, and with some alterations and amendments therein made were consented to by the Board.

Ordered. That the Secretary write unto said Captⁿ Hill to give unto the said Mr George Turfrey directions relating to the prices whearat goods are to be sold unto the Indians and the rates to be given them for their Peltry.

BELLOMONT." — *Vol. 3, p. 106.*

In the same volume, under date of August 7, 1701, is the following minute respecting the orders he received for making the repairs, for reimbursing him the expense of which provision was made by this chapter:—

"An order directed unto Captⁿ George Turfrey Commander of his Maj^{ty's} Fort Mary at Saco for the making several reparations at the said Fort, to set the same in order for defence was made out and signed by fifteen of the Members of Council, present at the Board." — *Page 232.*

Chap. 3. This chapter is from council records, vol. VIII., p. 50. It has not been found in the archives.

Usher's petition, printed in the note to resolve, 1700-1, chapter 47, was probably prepared and presented to the Legislature upon an intimation from Bellomont that he had received the following special instruction from the Lords of Trade, included in their letter of instructions dated August 26, 1697:—

"We have been lately petitioned in behalf of Mr John Usher to recommend unto you the examination of the state of his accounts with the Government of the Massachusetts Bay, pursuant to the Orders of Council that have been made upon that subject. Whereupon we have thought fit herewithall to give you Copies of the said petition as also of the Order of Council therein mentioned dated the 12th Oct^r 1691, And of a letter from the Lords of the Council to the Governor of that Colony, by his Majesty's Command, dated the 26th March 1694, from all which you will understand what has been required and accordingly be enabled to give a proper answer thereunto." — "*New England, Board of Trade*," vol. 30, p. 346, in *Public Record Office*.

Undoubtedly the papers presented by Usher at that time were those mentioned in this instruction as forwarded therewith, and by which the facts, found by the committee appointed June 27, 1702,|| were substantiated to the satisfaction of the committee.

The business was still pending, however, when the Legislature of 1702-3 was prorogued. Since the order of the Council for the payment of Landlord Tyley's¶ account was passed August 5, 1703, about ten days after the date of the resolve, it may be inferred that the committee continued their sittings to about the date of their report, which was made at the next session, as required by the resolve of November 21, 1702,** as follows:—

* See Pattee's History of Braintree and Quincy, p. 452.

† See resolve, 1703-4, chapter 123 and note, and chapter 49 and note, *post*.

‡ Lewis, p. 161. Newhall, pp. 236, 576. Henry was the son of Henry, also of Lynn, who died October 4, 1676, according to Savage (*Genealogical Dictionary*), who adds that the son had a child born there in 1680.

§ *Mass. Archives*, vol. 122, p. 228.

|| *Resolves*, 1702, chapter 29.

¶ *Ibid.*, 1703-4, chapter 38.

** *Ibid.*, 1702, chapter 70.

"We the Committee appointed by the Great and General Court the 27th June, 1702. and continued by another Order of the 15th of October following, To examin the Accounts of John Usher Esq; late Treasurer, and to call for all former Reports and Papers relating thereto and to report our doings therein

In Obedience to the said Order, we perused the Acc^{ts} of the said John Usher Esq; with the Reports of former Committees, and Papers relating to the Premises. We also enquired of Mr. David Jeffries Attorney to the said John Usher Esq; for the Vouchers to the said Accounts: who informed us they were now in the Kingdom of England; By reason whereof we could not pass anew on the said Accounts, and Report on the same. But we suppose the former Committee had seen what Vouchers there were, and gave in their Objections; which, with the said John Usher Esq; his Answer, lye before this hon^{ble} Assembly: Only we would add that the said John Usher Esq; by his latter Account chargeth the Province with £187. 15^s 5^d which was not in his first Account; and most of which was Recovered of him at Law, and the whole paid by him, and was a Charge upon the Province, And are of Opinion, it ought to be Allowed in his Account.

Boston of the Massachusetts;

By Order of Committee

March 17th 1702 3.

SAMUEL SEWALL." — *Mass.*

Archives, vol. 101, p. 248.

Two days after the date of this report it was read in Council, accepted and sent to the representatives for concurrence. No action thereon having been reported by the House, November 16, 1703, Usher appeared before the Governor and Council and "made his Motion to the Board with reference to his Accounts."* A message was immediately sent to the House for the return of the report, which being sent up November 22, 1703, "was again read & anew voted an Acceptance, & sent down for Concurrence."† From the following memorandum on the original, dated December 2, 1703, it would seem that the report only had been transmitted to the House, without the accounts: —

"Read & voted. That This House not having the Accounts abovementioned know not how to Proceed upon them. JAMES CONVERSE Speaker." — *Ibid.*

Here the matter seems to have rested until the fourth session, when the following entry appears in the council records: —

"March 14, 1703-4. A Motion was made for reviving the Consideration of the Claim of John Usher Esq; heretofore Treasurer of this Territory, And the Report of the Comm^{ees} on his Acc^{ts}; & Papers were sent down to the Representatives." — *Vol. VIII.*, p. 28.

On the twenty-second an order passed by the representatives, that the consideration of Usher's petition and accounts "be deferred till the next session of this Court, was sent up and read." On the seventh of June, 1704, which was the eighth day (including Sunday) of the first session of the next Assembly, the order which constitutes this chapter was passed. On the ninth, Eliakim Hutchinson was substituted upon the committee for Andrew Belcher, to represent the Council. Finally, on the twenty-eighth, the committee appointed under this and the next chapter made their report as follows: —

"In Obedience to an Order of the Great & Generall Assembly held Maye 31st 1704./ Ap- pointing us the Subscribers to be a Comitte to Examine y^e Acc^{ts} of John Usher Esq; Late Treasurer of the Terretory of New Engld. & to make a report what we thinke proper to be done by the Court Concerning them

We haueing perused & Examined y^e sd acc^{ts} & discoursed wth the said John Usher Esq; relateing to y^e Same. Observing & Concedering all Objections made by former Committes to sd. acc^{ts} wth sd. Ushers Answers then, & now Given to y^e p^{re}misses. And notwthstand- ing we may thinke y^t Sundry paym^{ts} were not soe proper to be paid by the Terretory y^t then was. Yet wee find that Generall of them Objected against by former Committes were Ordered by y^e Govern^r & Council that then was & therefore ought to Justifie his paym^{ts} as well as any other of that Time & viz^t The payment of: . . . 1149th 11^s 3^d

for ffort Mary & ffor y^e dry dock at Charlestowne/ . . . 343. 19. 11. —

ffor the annexing new Yorke — &c . . . 180. 01. 5. —

ffor the annexing Connecticott . . . 489 . 1. 6:

& some oth^{rs} we also find some smaller payments, he made for y^e publick & hath receipts for w^{ch} We are of Opinion are not Worth the Contesting. The maine & principall difficulty wth us w^{ch} we thinke proper to lay before this Hon^{ble} Assembly is That the said Usher by virtue of a Generall order he had in Council to Satisfie his Excellency for his Salary out of the Revenue, untill Christmas-then-last past, w^{ch} was in y^e year. 1688 & noe sume mentioned, that he be directed to Explaine how it Amounts To „4286th 9^s 4^d Alsoe his paym^{ts} of „300. £ — pounds in two paym^{ts} that was Adnanced for Substanc^e of Soldi^{ers} & paid Mr Wells. w^{ch} afterwards without ord^r was applied to Sr Edmond Androsses Sal- lary and further his ord^r being to pay him Till Christmas — in y^e Year: 1688. Why he pd him wth out ord^r to the Aprill following w^{ch} amounted to „437th 10^s 0^d more — As to his demand for his own Salary. & the payment made to Mr Blathwait — It being a matter fully known to y^e Court wee shall not need to Insist there on

wee would further Add y^t his latter Acc^{ts} for 187. 15. 3^d paid by him Since the Reuo- lution & most reconered by Law, & was pd by him for the use of the publick whitch sum of 187: 15: 3 Wee are of Opinion Ought to be Alowed him in his Acc^t —

JOHN WALLEY By order
& in the name of y^e Comitttee

memorandum

The ballance demanded by John vsler Esq; in his first Acc^t is . . . 351: 02: 10
in his last Acc^t 187: 15: 03

The whole 1038: 18: 1."

— *Mass. Archives*, vol. 101, p. 270.

* Council Records, vol. VIII., p. 9.

† *Ibid.*, p. 14.

‡ In the series in the State Library the words "with the acc^{ts}" are inserted here. This is un- doubtedly according to the fact.

This report was immediately read and accepted by the Council, who passed a vote that "Mr. Usher be heard upon the articles in question before the whole court forthwith," which vote, together with the accounts and the committee's report, being sent to the representatives for concurrence, was read in the House and the following vote was passed thereon and sent to the Council with all the papers: —

"In the House of Representatives

June 28: 1704 Read. 29th & The Consideration of the within Report Referr'd to the next Session of this Court a third part of this House being absent.

NEHEMIAH JEWETT Speaker *¶ tempore.*" — *Ibid.*,

p. 271.

The Council appear not to have formally concurred in this vote; but the subject came up again in the third session and Usher was granted a hearing upon a new appointment. See chapter 70, *post*.

Chap. 4. This chapter is from council records, vol. VIII., p. 51. It has not been found in the archives.

See note to chapter 3, *ante*.

Chap. 5. This chapter is from archives, vol. 30, p. 494. It is recorded in council records, vol. VIII., p. 51.

With the exception of the plan, under Bellomont, in 1700,* to evangelize the western Indians, only one attempt to confirm the alliance with them had been made since the treaty with the Five Nations August 13-15, 1694.† This was the grant to them of fifty pounds, which was forwarded by Lientenant-Governor Stoughton through Governor Fletcher, September 30, 1695,‡ as a token of approval of their design to dislodge the French at Cadaraqui. The present scheme was first proposed by Johannes Schuyler to the governor of Connecticut April 24, 1704. — Winthrop Papers, part V., p. 194, and see chapters 8, 23, 35 and 101, *post*.

Chap. 6. This chapter is from council records, vol. VIII., p. 51, and archives, vol. 71, p. 47.

The barbarous massacre at Deerfield February 29, 1703, O. S. (March 11, 1704, N. S.), by a party of French and Indians, which has been mentioned § as the chief inducement to the retaliatory expedition eastward the next year under Colonel Benjamin Church, would probably not have occurred but for the facilities for secret incursions into the western frontiers of the province afforded to the French and Indian enemy by the state of neutrality, to which, for the purposes of trade, the New York government had bound itself in its treaties with the Indian tribes of the north and west. The reprisals made by Church led to the exchange of prisoners, particulars of which are given in the note to private act, number nineteen. ||

Although Cornbury is justly blamable for this impolicy he is entitled to credit for his successful espionage of the enemy's movements and his prompt warnings to the Massachusetts authorities of all symptoms of danger. As early as May, 1703, ¶ he notified Dudley of an intended descent upon Deerfield, and appears to have kept the latter informed, ** from time to time, of the progress of this projected invasion. The inhabitants of Deerfield as well as of the other western settlements of Massachusetts were not inclined to disregard these warnings and seem to have been fully aware of their danger.

In October Rev. John Williams of Deerfield, Rev. Solomon Stoddard of Northampton and Colonel Partridge of Hatfield, successively, represented to the Governor, or to the Assembly, the precarious condition of Deerfield, the need of constant vigilance and of taking extraordinary measures for defence, and also the great expense arising therefrom, and pleaded for pecuniary assistance either by a grant or the reduction of the province taxes. Mr. Williams, indeed, represented as the unavoidable alternative the abating his salary, as he had done years before, if the Legislature did not make an equivalent provision for the town. The result of these representations was the passage of resolve, 1703-4, chapter 75, †† and the detailing of sixteen soldiers to garrison the stockaded house of Captain Jonathan Wells, in an exposed part of the town.

The billeting of these soldiers until the sixth of December was paid for by the province. †† These soldiers, according to custom, undoubtedly helped in constructing the defensive works.

Mr. Williams was instant in reminding his flock of the perils of their situation; §§ but as winter approached there appears to have been, from a knowledge of the almost insurmountable difficulty of traversing the wilderness from Canada during that inclement season, an increasing sense of security in the town. From December to near the end of February all the soldiers detailed for garrison duty there were withdrawn. |||| Four days

* See note to resolve, 1700-1, chapter 45.

† In June, 1698, the General Court proposed an address to Bellomont to use his influence to induce the Schaghticoke and other Indians to quit the vicinity of Wampesaukee and the White Hills, where they were in a position to assist the Pennecooks and other tribes who were under the influence of the French. See resolves, 1698, chapter 9.

‡ See note to resolve, 1695-6, chapter 35.

§ Resolves, 1703-4, chapter 100, note.

|| See Province Laws, vol. VI.

¶ Hutchinson's Hist. Mass., ed. 1767, vol. 2, pp. 136, 137.

** Documents Relating to the Colonial History of the State of New York, vol. IV., p. 1099.

†† This allowance, though granted before the attack on Deerfield, was not paid over until after Mr. Williams had been carried captive to Canada. Hence the order of the Council that it be paid, on his behalf, to his brother Samuel.

‡‡ Executive Records of the Council, vol. 4, p. 42.

§§ Penhallow's Indian Wars, p. 24.

|||| Letter from Samuel Partridge to Governor Fitz-John Winthrop, February 21, 1703-4: Winthrop Papers, part V., p. 171.

before the attack, however, Dudley "had enforced the place with twenty soldiers,"* probably upon a notice from Cornbury of the setting out of a war party from Canada for the western frontiers of the province.

The enemy got possession of the fortifications very early in the morning, after all, or nearly all, of the watch had turned in. The surprise, which was complete, was facilitated by a recent fall of snow, a drift of which against the palisades afforded easy access, on snow-shoes, to the enclosure and to the fastenings of the gates, which were thrown open to the invaders without alarming the sleeping garrison.† The hostile party consisted of more than two hundred and fifty Indians‡ from Canada led by the *Sieur Hertel de Rouville*, the younger, and four of his brothers. The most careful estimate of the losses of the English is forty-nine killed and one hundred and eleven taken captive. This includes the wounded and those who fell while in pursuit of the enemy.§ after the sacking of the town.

Fugitives from the burning town spread the tidings of the attack as far as Hatfield and the settlers and garrisons throughout the neighboring country quickly joined in pursuing the departing enemy, as set forth in the following petition:—

"To his Excellency the Governour together with the Hon:^d Council & Representatives met in the great & general Assembly at Boston, may 31. 1704

The Humble Petition of Jonathan wells & Ebenezer wright in the behalfe of the Com-pany who encountered the french & Indians at Deerfield. febr: 29. 1703. Sheweth

first, That we understanding the extremity of the poor people at Deerfield made all possible haste to their reliefe, that we might deliver the Remnant that were left, & doo spoil on the enemy.

2^{ly} That being joyned with a small number of the inhabitants & Garrison Souldiers, we forced the enemy out of Town, leaving a great part of their plunder behinde them, & persuing them about a mile & an halfe did great execution upon them, we saw at the time many dead bodies, & we & others did afterwards see the manifest prints on the snow, where other dead bodies were drawn to an hole in the River.

3^{ly} That the enemy being reinforced by a great number of fresh men, we were over-powered & necessitated to run to the fort, & in our flight, nine of the company were slain & some others wounded, & some of us lost our upper garments, which we had put off before in the persuit.

4^{thly} That the action was over & the enemy withdrawn about fourscore Rods from the fort, before any of our neighbours came into the fort.

wherefore we doe Humbly supplicate this Hon:^d Assembly, that according to their wonted justice & bounty, they would consider the service we have done, in preserving many lives & much estate, & making a spoil on the enemy: the hazzard that we run, the losse we sustained, the afflicted condition of such as have lost near relations in this encounter, & bestow upon us some proportionable recompence, that we & others may be encouraged upon such occasions, to be forward & active to repell the enemy & rescue such as shall be in distresse, though with the utmost peril of our lives, & your Petitioners shall pray &c:

JONATHAN WELLS
EBENEZER WRIGHT

In the Name of the Rest." — *Mass.*

Archives, vol. 71, p. 46.

This petition was read, first, in the House, on the second of June, and probably referred to the standing committee on petitions, whose report, without date, was as follows:—

"In Answer to y^e Petition of y^e souldiers that persued y^e Enemy at Dearfield the Committee are of opinion that dne encouragement be given them that is to say that their losses to y^e value of £18-07s-0d be Repaid out of y^e Treasury And that y^e sum of Three pounds be Given to Each surviving souldier engaged in that service and that five pounds be allowed to y^e widdow of each of y^e slaine in that encounter." — *Ibid.*, p. 51.

It was not until the eighth that the resolve which constitutes this chapter was passed and sent to the Council for concurrence. It was concurred in, and consented to by the Governor the next day.

With the petition were filed a list of those who were engaged in this pursuit of the enemy; a first and a supplementary account of losses of arms, clothing, etc., by the provincial soldiers, in their encounter and retreat, and an account of plunder taken from the enemy and sold, with the names of those who brought it in. These papers are given below in the order in which they are mentioned:—

* Letter from Isaac Addington to Governor Fitz-John Winthrop, March 6, 1703-4: Winthrop Papers, part V., p. 180.

† Winthrop Papers, part V., p. 176. An exhaustive account of the attack and pursuit, prepared by Hon. George Sheldon for the *Greenfield Gazette and Courier*, is given in a revised form in his *History of Deerfield*, now in press.

‡ Accounts differ as to the proportion of Frenchmen in this party. Charlevoix, who had the best means of ascertaining the fact, is silent on this point except so far as to admit the loss of three Frenchmen. — *Histoire (Shea's translation)*, vol. I., p. 161. Col. Quary estimates that there were about three hundred Indians and twenty or thirty Frenchmen. — *Documents Relating to the Colonial History of the State of New York*, vol. IV., p. 1083. Rev. John Williams says, three hundred French and Indians were present at one time. — *Sheldon's History of Deerfield*, in *Greenfield Gazette and Courier*, No. 33.

§ Tidings of the return of the enemy to Canada are thus reported in the Boston News-Letter of May 8-15, 1704:—

"*Albany*, By a Letter to His Excellency Governour DUDLEY the 12. Currant. acquainted, That the Enemy French & Indians, who did the mischief last Winter upon *Deerfield*, were got safe home to Canada with their Prisoners; And that notwithstanding the negligence of our People, they do acknowledge to have lost Two of their principal French Officers and 50 French & Indians in the action." — *No. 4.*

"A list of the Nams of those that fought In dearfield medow on the last of febewarey 1703/4

Cap Jonathan Wells	Nathaniell white
Serian Benjamin wait:0:	thomas Houe
Serian Seenin Beldin	Joseph smith
Serian Ebenezer Wright	samuell crofoot
Serian Samuell Boltwhood: garison	ebenezer dickeson
soulder:0:	John wells
Joseph Cleson — garison soulder	thomas barnod
thomas Alnard garison soulder	Samuell barnod
Benjamin field garison soulder	John mun
thomas Rnsell garison soulder	Joseph siuerance
Samuell foot: garison soulder:0:	Nathaniell colman
thomas wells	samuell gillit
ebenezer warner	John unatoone
Samuell field	John smeed
Zacrye field	John Armes
John waite	Joseph catlin :0:
John graues	Dauid hoit :0:
John smith	Samuell ellice :0:
Daniell warner	Jonathan wells
Benjamin Stebings	Samuell warner
John marsh	Samuell wright
Samuell Boltwhood: inr	Joseph wright
Robard Boltwhood:0:	preseruid strong
Jonathan ingrum :0:	James Bridgman
Nathaniell warner:0:	Samuell dickeson
Samuell church	Nathaniell dickeson
Joseph church	John ellice
John montecun	primes Negro
Ebenezer seldin	John warner

This list taken by order from cap wells the Slain mark.d 0

EBENEZER WRIGHT." — *Ibid.*,

p. 48.

"An Account of what was lost by the soulders in that axshon At dear field

John Smith one coat & gacket	01 - 06 - 00
Joseph smith one coat & gloues	01 - 08 - 00
John mounticu coat & neckcloth	01 - 03 - 00
Joseph church coat & iacket	01 - 10 - 00
Daniell warner coat & iacket	02 - 03 - 00
Ebenezer Seldin coat & gloues	00 - 16 - 00
Samuell dickeson A coat	00 - 16 - 00
Thomas hove A coat	01 - 01 - 00
Nathaniell white coat & hat	01 - 06 - 00
Samuell crofoot p ^r shoose	00 - 06 - 00
Samuell boltwhood A coat	01 - 00 - 00
Jonathan ingrum 0 coat iacket & gun	03 - 00 - 00
Nathaniell warner 0 A coat iacket gun & hat	02 - 00 - 00
Robard boltwhood 0 one iacket	00 - 09 - 00
John graues A coat wascote & belt	02 - 00 - 00
Nathaniell dickeson one hat & pair gloves	02 - 07 - 00
James bridgmon coat & gloves	01 - 02 - 00
Ebenezer warner A coat	03 - 09 - 00
Richard biling A coat	03 - 18 - 00
John allise A coat	01 - 10 - 00
Samuell gillit p ^r shoose	00 - 06 - 00
Ebenezer wright one pair new shooses & spvrs	00 - 09 - 00
benjamin waite 0 stript	
Samuell foot 0 gun & stript	
Samuell ellice 0 gun & stript	
Dauid hoite 0 gun & stipt	
Joseph catlin 0 gun & stript	

Summ totall	33 - 5 ^r - 0
more thirty four *	1 - 14 - 0

34-17^r- 0."

— *Ibid.*, p. 52.

"S^r since I spak with you I have Resaned an account from dearfield of the loss of sum cloathes in the fight at dear field

thomas barnod 2 wascots	01 - 02 - 00
Joseph siuerance one hat	00 - 12 - 00
please to ad it to the account	

EBENEZER WRIGHT." — *Ibid.*, p. 50.

"An Account of w^h plunder was taken from the enemy on the last of february 1703/4: & solde by y^e company

Resaned

John wells one gun	01 = 09 = 00
more one bariell of gun	00 = 03 = 06
samuell barnod on ^e gun	01 = 09 = 00
thomas Rvscell on ^e bariell and lock	01 = 03 = 00
John matone A peece of gun	00 = 14 = 00
John wells 3 peeces of guns	00 = 07 = 00
thomas Barnod on ^e hatchet	00 = 02 = 00
heseciah Root on ^e blanket	00 = 09 = 00
thomas barnod on ^e blanket	00 = 03 = 08
Samuella carter	00 = 04 = 00
Jonathan wells	00 = 04 = 04
ebene sarles on ^e cap	00 = 04 = 06
Jonathan wells	00 = 06 = 00
william belding	00 = 02 = 00
Jonathan wells	00 = 03 = 00
Ebenez wright on ^e gun	01 = 15 = 00
Bema ^a stebins on ^e pistill	00 = 10 = 00
John granes on ^e hatchet	00 = 01 = 06
Joseph smith on ^e gun	02 = 00 = 06
Ebene boltwhood on ^e pistile	00 = 09 = 00
Samu ^l dickeson A hatchet	00 = 02 = 00
Natha ^l white A hatchet	00 = 02 = 02
thom ^s houie A hatchet	00 = 02 = 00
Sa ^l church A powder horn	00 = 01 = 02
Nah ^l white A blanket	00 = 05 = 08
Eben Seldin A baganet	00 = 04 = 06
Sam ^l field A hatchet	00 = 02 = 00
Joseph brooks A gnn	01 = 11 = 06
Zacrye field in ^d shoes	00 = 00 = 10
Nat ^l colman gun case	00 = 00 = 06
primvs negro glas bottle	00 = 00 = 06
Richard billing	00 = 08 = 04
John wait A hatchet	00 = 02 = 07
Zacrye field A squaline	00 = 01 = 07
Sam ^l warner A squaline	00 = 02 = 10
Nath ^l colman A squaline	00 = 01 = 06
Jona wells A squaline	00 = 01 = 02
Zacrye field A cap	00 = 02 = 10
Sam ^l wright A knife	00 = 01 = 00
Samuell warner	00 = 01 = 03
Zacrye field A pair of snoshoes	00 = 05 = 03
Zacrye field A blanket	00 = 02 = 08
John granes A blanket	00 = 03 = 00
thomas well A blacket	00 = 05 = 00

Sum totall

16 — 12 — 10."

—*Ibid.*, p. 49.

The order in Council* for the payment of the allowance granted by this chapter was passed July 7, 1704, and the province treasurer's account† contains a charge to Captain Jonathan Wells and Ebenezer Wright of £108 17s.‡

See note to resolves, 1703-4, chapter 87.

Chap. 7. This chapter is from council records, vol. VIII., p. 54. It has not been found in the archives.

While the reconnoitring party under Caleb Lyman were on their way to Cowassie § two letters were received by Major Whiting and Mr. Richard Lord ¶ from Colonel Peter Schuyler at Albany, "intimating a design of the French to infest the plantations of New Hampshire." ¶ Neither the originals nor copies of these letters (which are the letters mentioned in this chapter) have been discovered, but copies were promptly forwarded to Dudley, together with the copy of a letter from Vandreuill to Schuyler, and their purport and the manner of their transmission are shown in the following correspondence:—

"For her Maj^{ty}'s speciall Service, For the Honorable John Winthrop Esq^r, Gouverneur . . . North Hampton, June ye 9th 1704. About 9 in the evening.

St.—I have just now by an express from Albany recd ler^s from Col Schuyler directed to Mr Lord and my self, wherein he advises of some approaching danger; the ler^s have been sent downe to Mr Lord directed to your Hon^r The case requires some speedy assistance, if possible before the enemy make their assault. . . . I must not enlarge; am putting our selves into the best posture of defence that we can. . . .

Your Honor's most obedient servant,

WILL: WHITING.

Delays in this case may be dangerous. We are sending an express to Boston. . . ."—*Winthrop Papers*, part V., p. 217.

* Executive Records of the Council, vol. 4, p. 40.

† Mass. Archives, vol. 122, p. 256.

‡ The difference of six pounds may have been a clerical error, or may have been charged in another entry.

§ See note to chapter 53, *post*.

¶ In May, 1700, Richard Lord of Hartford was chosen lieutenant of the troop for the county of Hartford. In 1704 he had been promoted to a captaincy. He is mentioned here without a military title, and whether he was acting in a civil or military capacity does not appear. ¶ *Sic*.

"Fitz-John Winthrop to Joseph Dudley.

New London, June 10th, 1704.

Sr, — I received a letter this evening at nine of the clock, in 24 houres from Northhampton, from Major Whiting. . . . and therein two letters by an expres from Coll: Schyler . . . intimating a designe of the French to infest the Plantations of New Hampshire with 200 Christians & 300 Indians. The people there are very sensible of some approaching danger, & Major Whiting desires some farther assistance of sold^{rs}, the forces there being divided into the severall townes. He allsoe desires that ammunition may be speedely sent to them, which I must recomend to yor Excellency to furnish. . . . I expected the two hundred volluntiers yor Excell^y promised by Mr Secretary Addington would have been at Northhampton by the last of May as he mentioned, w^{ch} would have been a good recruit against the present danger; but hearing noething of their arrivall . . . I ordered the Committe of War at Hartford to raise 100 soldiers to be sent vp immediatly for their assistance. . . . I have enclosed the coppinges of the letters from Coll: Schyler & the Govr of Canada his letter to Coll: Schyler, least they should miscary. . . . I send this by a gentleman of the Council . . . who will wait upon your Excell^y and heare any thing you will please to mention for the publick service.

I am Sr,

Yor Excellencye's very humble servt,

J: WINTHROP." — *Ibid.*, p. 218.

Chap. 8. This chapter is from council records, vol. VIII., p. 54, and archives, vol. 30, p. 495.

The report of the committee mentioned in the preamble to this chapter was signed by Penn Townsend, for the committee, as first drawn, and had between the words "to" and "renew," in the third line, the words, "treat with ye moques &c. and," and the words "Treaty & provide A Sutable present on their parts," instead of "negotiation," at the end of the first paragraph. These omitted words were underlined, evidently to indicate that they had been stricken out in committee. The concluding formula of the report, "w^{ch} is humbly Submitted," was not retained in the Secretary's record of the vote.

On the fourth of September, 1704, John Foster, Penn Townsend and Andrew Belcher of the Council were appointed a committee "to invest the money granted for a present to the Five Nations of Indians, in such things as they Judge to be proper & that will be most acceptable."* This committee rendered an account of their doings on the twenty-first, whereupon the following vote was passed in Council:—

"Sept. 21, 1704. Pursuant to a resolve passed by the Great & General Court or Assembly, at their Session, begun the 31st of May past that a sutable present be provided to be made to the Maquas &c^a about two hundred pounds value.

An Account of the Cost thereof being presented by Andrew Belcher Esq^{re} Commissary General, amounting to one hundred thirty two pounds, fourteen shillings and three halfe pence, over and above six halfe barrels of Powder of the Province Stores.

Advised and Consented That a Warrant be made out to the Treasurer to pay the above sum of one hundred thirty two pounds, fourteen shillings & three halfe pence to the said Andrew Belcher Esq^{re} accordingly." — *Executive Records of the Council*, vol. 4, p. 76.

The province treasurer's account † contains the entry of a charge of this amount as paid to Belcher.

For correspondence with the neighboring governments, the appointment of the commissioners, and their doings, see chapters 23, 35 and 101, *post*, and notes.

Chap. 9. This chapter is from council records, vol. VIII., p. 55.

The following is the account ‡ referred to in this chapter:—

¶ An account of sundrys advance^d by John wyatt Late Sarg^t at black point in her maiestis service viz. —

	£	s	d	
To 40 dayes work of Joseph Ting about the frame and y ^e watch box at 3 ^s	4	0	0	4 — 0 — 0
To Eight days work of seshons about ditto at 18 ^d	0	08	0	0 — 8 — 0
To 30 days work of Gershum wyatt about ditto att 2 ^s 6 ^d	1	10	0	2 — 5 — 0
To 10 days work hire of a team in drawing of timber and stone for y ^e hous and sellar at 3 ^s	1	10	0	1 — 13 — 0
To dyeting of y ^e severall work men at	1	00	0	£. s. d.
				15 × 12: 0
				10 — 16 — 0

To 6000 and 300 feet of boards p ^d capt harvey	6	6	0	6 = 6 = 0
To transporting of severall soldiers and 2000 of board to black point p ^d to John Ellwell	2	10	0	1 — 10 — 0
To freight of 4000 : and 300 foot of boards more being from sacoe	1	0	0	0 — 12 — 0
To 13 th of Nails	0	15	9	0 — 15 — 9
To 200 of brick and 18 paulings	0	7	0	0 — 7 — 0

* *Executive Records of the Council*, vol. 4, p. 63.

† *Mass. Archives*, vol. 122, p. 226.

‡ This paper, though obscure as a fiscal statement, is one of the numerous curious and historically valuable papers that have been abstracted from the state archives. Fortunately it found its way, together with the report of the committee thereon, and the original resolve, into the possession of the late Professor Lettingwell. It has since been sold with his other manuscripts. It is numbered 6202 in the sale-catalogue of Messrs. C. F. Libble & Co.

To ferrage at severall times to sacoe p ^d to scammond 0 - 12 ^s - 0 :			
and to a hors to fetch prouisions at sundry times to black point vntill august 0 - 18 ^s - 0	1 - 10 - 0	1 - 0 - 0	
To stoning the seller ^s and vnder pining y ^e house	1 - 16 - 0	1 - 0 - 0	
		14 : × 04 :	9
		11 = 10 :	9
To 2 gallons of oyl : at 4 ^s and 2 bushels of meal at 6 ^s	0 - 10 - 0		
To 2 bushels $\frac{1}{2}$ of pease at .5 ^s p ^r bushell	0 - 12 - 6		
To 1 ^{lb} of bread	1 - 5 - 0		
To 166 £ of beef at 1 ^d : $\frac{1}{2}$	1 - 0 - 9		
all which was expended of nesesity vpon the senerall inhabitan ^{ce} ; and parsons that fled to the fort for protection		3 : × 08 :	3
To the vse of my shallop from august 10 to y ^e time y ^t the garrason was desarted being Constantly in saruice	2 ÷ 00 - 0	1 - 0 - 0	
To so much p ^d to John addams towards his saruice : and the saruice of his man done at sy ^d fort as appears by his rec ^{te}	3 ÷ 11 : 7	0 - 11 ^s - 0	
To so much p ^d John hornebrook on ditto account :	2 = 03 - 1		
To 6 fishing Leads waite £18 : cast into shot	0 - 09 - 0	0 - 6 - 0	
To about 2 hogsed of salt wasted by the fire	2 - 5 - 0	1 - 0 - 0	
		2 - 6 - 0	
		10 × 08 :	8
		£ - 43 .. 13 .. 8	

Errors Excepted P^r me JOHN WYATTDecember y^e ninth — 1703In the House of Representatives June 9th 1704

Resolved That the Sum of Thirty and three Pounds, fifteen Shillings and eight Pence be allowed and Paid out of the publick Treasury to Lieut: John Wyatt, in full of his acc^t: on the other Side

Sent up for Concurrence.

JAM^s CONVERSE Speaker, —June. 14th In Council

Read and pass'd a concurrence

ISA^d ADDINGTON Sec^y.

When the account was first presented does not appear, but it would seem to have been referred to the standing committee on petitions, of the House, as early as the ninth of June, since on that day the resolve which constitutes this chapter was passed by the representatives, evidently upon the following report: —

“Comite are of opinion y^t y^er be allowed of y^e within acct, twenty Eight pounds. one shilling.

& he haueing payd Adams & Hornbrook y^r wages as he Informs If it be not allowed in their debenters we are of opinion yt it ought to be there allowed : when debenters are granted £33, 15 .. 8.”

This account is made clear by the clews which this report affords. The items allowed by the committee are in the right hand column which foot up £10 16s. 0d.; £11 10s. 9d.; £3 8s. 3d. and £2 6s. 0d. respectively, — a total of £28 1s. If to this total are added the differences between the footings of the two columns; viz., £4 16s.; £2 14s. and £8 2s. 8d., the sum will be the amount claimed by Wyatt. Evidently the representatives were unwilling to concur with their committee in striking out the payments to Adams and Hornbrook, £5 14s. 8d., which the committee had deemed proper to be passed upon, and to be paid by debentures duly issued, by the commissioners for war, so that, accepting the committee's report on all the other charges, and restoring these last, the amount allowed was £33 15s. 8d.

The order in Council[†] for payment to Andrew Belcher, commissary-general, of the amount allowed was passed July 7, 1704, and the province treasurer's account[§] shows a charge of the amount as paid to Belcher, “on behalfe of Several persons for materials & work done at Black point Garrison & other disburstments as p^r Lt John Wyatt's Account.”

An account of Wyatt's services as lieutenant is given in the note to chapter 51, *post*.

Chap. 10. This chapter is from council records, vol. VIII., p. 55. It has not been found in the archives.

The following is the first instance discovered in the records of the province of the oath required of the province treasurer to the correctness of his accounts: —

“Feb. 26, 1704-5. Mr Treasurer Taylor was sworne before his Excellency and Council to a Certificate by him signed, that the several publick Accounts by him rendred to the Dep^y Auditor, for each year successively, during the time of his having sustained the Office of Treasurer & Receiver General of this Province, commencing from the Month of May 1693. and continued unto May 1704. are just and true accounts in the several articles of Receipt and payments therein respectively mentioned, and that he has as well charged himself with the full of all the publick money which he received within the sd several years, as duly discharged himself, in issuing thereof by orders and Warrants from the Government.” — *Executive Records of the Council*, vol. i, p. 148.

* Whether these figures were inserted by mistake of the transcriber, or of the committee, does not appear, but the eleven shillings were not added in by the committee.

† The last entry 1. 0. 0, evidently should come into the right hand column under “£. s. d.”

‡ *Executive Records of the Council*, vol. i, p. 39.

§ *Mass. Archives*, vol. 122, p. 232.

Chap. 11. This chapter is from council records, vol. VIII., p. 53, and archives, vol. 17, p. 112.

The following is the petition mentioned in the preamble to this chapter: —

"To his Ex^{ty} Joseph Dudley Esq^r Captain General and Governour in chief in and over her Ma^{ty} Province of the Massachusetts Bay in New England, The hon^{ble} Council and Representatives of ye same convened in General Assembly May *Ult* 1704.

The Petition of Joseph Bridgham of Boston —

Humbly Sheweth, /

That whereas yor Petitioner is appointed Guardian unto Edmund and Elizabeth Mountfort the two children of Edmund Mountfort late of Boston Mariner decessed being both Minors under the Age of Ten years. And whereas the said Minors by virtue of the last Will and Testament of their Grandfather Edmond Mountfort sometime of Boston afores^d Shopkeeper also decessed have a right and Interest in and to one Sixth part of the Dwelling house of their s^d late Grandfather with the Appurtenances, Situate at the Northerly end of Boston afores^d, which cannot Admit of a Partition, and is not likely to be of benefit and Advantage to the said Minors, by their holding of their Share and Interest therein the necessary disbursements which must be made for upholding and repairing the same, and other charges will carry away all, if not more than the Income, besides the casualty Attending the same of Fire &c. but the money or produce thereof upon Sale may be improved to far greater Advantage for the said children, And the rest of the Interested having disposed Of their parts or Shares therein to Jonathan Mountfort the present Possessor — The premises considered

Yor Petitioner humbly prays on behalfe of the s^d Minors, That he may be Impowred by an Act or Order of this hon^{ble} Court to make Sale of their own Sixth part or Share in the s^d House and Land with the Appurtenances, and to Seale and Execute a good and Legal Deed or Conveyance for Alienating of the same.

And yor Petitioner as in Duty bound shall ever pray &c

JOSEPH BRIDGHAM." — *Mass.*

Archives, vol. 17, p. 111.

This petition was read first in the Council on the day the order thereon was passed.

For a statement of the law during the provincial period for the sale of estates of minors, see private act, number fifteen, vol. VI., p. 101, note.

Edmund Mountfort, senior, whose will is dated August 8, 1690, named his widow, Elizabeth, his executrix. His death occurring in the troublous period just after the overthrow of Andros's government accounts for the delay in proving the will, which was not done until April 2, 1691. The will contained the following clause: —

"I give and bequeath unto my loving wife my whole estate both reall and personall to possess & enjoy during her naturall life my houseing and all the land belonging to them I purchased with my money. And my will is they shall be as chattells or as any other part of my moveable Estate. Also I give unto my Beloued wife full & ample power to sell my house in the Lane comonly called the black horse Lane. And my will is that after the decess of my Deare & Loving wife my whole Estate after due appraisement Bee equally diuided Amongst my children, both sonns & daughters to have like portion only if my Elder Son Edmond shall survive his mother he shall have a double portion." — *Suffolk Probate Files, No. 1832.*

By virtue of the authority thus given, the widow, describing herself as widow and executrix, conveyed, September 4, 1690, to James Berry of Boston, mariner, for seventy pounds, a message at the north end of Boston fronting forty feet south "on the street that leadeth from the North meeting house towards Center Haven" and so running back the same width, north, to land late of Richard Bennet, deceased, eighty-six feet on the west line, and seventy-eight feet on the east line, bounding east by land of "Ezechie Hamling," and west by lands in possession of Richard Towt, senior.* This seems to have been a portion of the homestead estate.†

No other deed conveying any portion of the estate appears of record until December 4, 1751, when a release to Hannah Mountfort of Boston, mother of the grantors and widow of Jonathan Mountfort, late of Boston, shopkeeper, was recorded.‡ In this release the following is the description of the grantors: —

"Newman Greenough and Elizabeth his Wife . . . Sarah Gardner Widow . . . Jonathan Mountfort Apothecary [eldest son of the deceased] and Sarah his Wife . . . Samuel Sarvis and Joanna his Wife . . . Abigail Mountfort Single-woman . . . Nathaniel Mountfort Merchant . . . and Lydia Mountfort . . . all of Boston aforesaid."

The released premises are described as follows: —

"All that Dwelling House with a Small Scurt of Land thereunto belonging on the Front next the Street going up to the Old North Meeting House (so called) at the North End of the Town of Boston aforesaid formerly purchased by our said Honoured Father . . . of his Brother Henry Mountfort and John Mountfort and his Sister Sarah Mountfort, one moiety or full half part of the whole; and of Joseph Bridgham, Guardain . . . one full sixth part of the whole and one sixth part of the whole Recovered by the Law for the helps of Joseph Wadsworth, Esquire deceased and paid and satisfied by our said Honoured Mother . . . since our said Honoured Father's . . . Death and the other sixth part of the whole being our said Honoured Father's . . . part by Inheritance which said House and

* Suffolk Registry of Deeds, lib. 16, fol. 45.

† As to the location of this estate the editor is indebted to Mr. Henry Herbert Edes of Charleston for the following authentic statement. —

"The Mountfort estate was on the northeasterly side of Prince Street formerly called Black-Horse Lane, on the site of the buildings numbered 37 and 39, between the St. Francis Roman Catholic Church (southeast) and Samuel Place."

‡ Suffolk Registry of Deeds, lib. 86, fol. 76.

Scurt of Land and the rest of the Ground the said House stands upon is bounded with the House of Deborah Robins in part and in part with another Tenement or Messuage now in the possession of our said . . . Mother . . . East, or East and by North; with the highway or strait line lying along next the water side Southeast; and by the aforesaid highway leading up to the Meeting House aforesaid Northwest; and with reference to further and exact Dimensions of which abovesaid House, and Land it stands upon, next to Fish street (so called) running from the Southeast Corner of Deborah Robins's Tenement to the Southeast Corner of the aforesaid House on Fish street, so called, there measuring twenty two feet and four inches, more or less; and from said Southeast Corner of the said House to the West Corner of the said House which is or may be called a Blunt Corner, there measuring fourteen foot and half a foot, more or less; and from said West or Blunt Corner of said House & Ground, running on an Angular Line bounded on the Street or highway leading to the Old North Meeting House aforesaid, there measuring thirty three feet and two inches more or less; within the Limits of which thirty three feet and two inches of said Angular Line is contained the aforesaid Scurt of Land and from the Northeast End of * thirty three feet and two inch Line to the West Corner of the Tenement now in Possession of our said . . . Mother . . . there measuring four feet and eight inches more or less; and from the West Corner of the said Tenement now in the possession of our said . . . Mother . . . and the Tenement of the aforesaid Deborah Robins and the Premises till it meet with the first Bounds at the Southeast Corner of said Deborah Robins's Tenement on Fish street (so called) there measuring Thirty six feet more or less which said Line of Thirty six feet is the Dividing Line between the said Tenement and the Premises, or however otherwise bounded or reputed to be bounded; and also a Certain Peice or Slip of Land which our said Honoured Father . . . purchased of Charles Henley & Martha his Wife as by their Deed acknowledged and Recorded bearing date the seventeenth day of April 1730."

Chap. 12. This chapter is from archives, vol. 58, p. 241. It is recorded in council records, vol. VIII., p. 57.

The following is Phillips's bill:—

"Messrs James Converse & Sam ^l Checkley To Sam ^l Phillips is		Dr	
		<i>sh</i>	<i>d</i>
To 4 Dozn & 2. Fast Sermons	By Mr Willard & Danforth	£2	1 11 8.
To Mr Willard			
To 4 Dozn & 2 Ditto to Mr Danforth		£2	1 11 8.
To 115 Ditto to His Excell ^y & Council & Representatives			
&c: a ^d a ^d 10 ^d peice		£4	15 10
		£8 19 2."	

— *Mass. Archives, vol. 58, p. 241.*

The resolve which constitutes this chapter was passed in the House June 13, 1704, and "sent up for concurrence." It was concurred in and consented to by the Governor on the sixteenth.

The order in Council† July 7, 1704, included the order for payment of the bill of Benjamin Eliot provided for by the next chapter; and the province treasurer's account‡ joins Phillips and Eliot in the charge of payment, which was for one sum — £14 11s.§

These sermons were preached before the Council and House of Representatives at the fast kept by the Legislature pursuant to resolves, 1703-4, chapter 87. The title of Samuel Willard's sermon was "Israel's True Safety."

John Danforth's sermon, the text of which was from Jer. xxii. 21, was printed with a long title beginning "The Vile Prophanations of Prosperity by the Degenerate among the People of God," etc. — See Sibley's *Harvard Graduates*, vol. II., pp. 33 and 512.

Chap. 13. This chapter is from archives, vol. 58, p. 241. It is recorded in council records, vol. VIII., p. 57.

The "books above mentioned" referred to in this chapter were charged in the following bill, to which the resolve was appended:—

"1704 Province of the Massachusetts Bay is		Dr	
June, To 150 Election Sermons		£3	15 : 0
To 8 Doz m ^r Pemberton's Sermons		1	17 : 0
		£5 : 12 : 0	

By BENJAⁿ ELIOT." — *Mass.*

Archives, vol. 58, p. 241.

The vote upon this bill was passed in the House and sent to the Council for concurrence on the fourteenth of June. On the sixteenth it was concurred in, and consented to by the Governor. For the executive warrant on the treasurer for this bill, and the payment thereof, see the note to the preceding chapter.

The election sermon|| was preached May 31, 1704, by Rev. Jonathan Russell, pastor of the church at Barnstable. His text was from Zeph. iii. 5: "The just Lord is in the midst thereof."

* *Stc.*

† Executive Records of the Council, vol. 4, p. 40.

‡ *Mass. Archives*, vol. 122, p. 234.

§ See also the discrepancy between the footing of the bill and the amount allowed, noticed in the foot-note to this chapter.

|| "Boston: Printed by Bartholomew Green, for Benjamin Eliot, at his Shop under the West End of Town-House. 1704."

"The Anniversary Election Sermon was Preached by the Rd. Mr. Jon. Russell upon *Neh. 9. 33.* And is order'd to be Printed." — *Boston News-Letter*, No. 7. A copy of this pamphlet is in the State Library.

Rev. Ebenezer Pemberton's sermon* was preached at a lecture at the Old South, April 20, 1704.

Chap. 14. This chapter is from council records, vol. VIII., p. 57. It is preserved in archives, vol. II., p. 191.

The resolve which constitutes this chapter was passed upon the following petition of the representatives from York:—

"To His Excellency Joseph Dudley Esq^r Captain Gener^l and Govern^r in chief of Her Maj^{ties} Province of the Massachusetts Bay in New England, and the Hon^{ble} the Council, and Representatives of her Maj^{ties} s^d Province in Gen^l Court Assembled. June 7th 1704. .

The Humble Petition of Lewis Bane Representative of the Town of York, in behalfe of the s^d Town.

Humbly Sheweth

That the s^d Town are Bless'd with a very worthy Minister the Reverend Mr Sam^l Moody, whom in the time of Peace the Inhabitants of the s^d Town with Difficulty, but cheerfullnesse supported: But are now Reduc'd to such Poverty by the Calamity of the war, that they are not capable to yield him a competent Maintenance. And the s^d Mr Sam^l Moody served her Maj^{ty} as chaplain to the forces that March'd the last winter to Pegwacket. And constantly serves as chaplain to the forces Posted in the s^d Town.

And Your Petition^r doth further humbly shew that Abraham Stevens, a souldier that served Her Maj^{ty} under Comānd of Lt Col^o John March, was by reason of sickness Dismissed from the service by the s^d Lt Col^o on the 17th of Dec^r last at the afores^d Town of York, where he Continued sick untill the 27th Day of May, during which Time the select Men of the s^d Town Took care for Diet, Lodging Attendance & Medicines for the s^d souldier.

Your Petitioner therefore humbly Praies Your Excellency & Hon^{rs} to Take the Premises into Consideration, and Grant such allowance toward the support of the Rev^d Mr Moody afores^d as in your wisdom shall be thought proper.

And also Grant meet Allowance for the charge the s^d Town have been at upon the sick souldier afores^d

And Y^r Petitioner shall as in Duty bound ever Pray. &c

LWIES BANE."—*Mass.*

Archives, vol. II, p. 191.

This petition was read in the House on the seventh and was, probably, referred to the appropriate committee. On the fourteenth the resolve was passed and "sent up for concurrence." It was concurred in and consented to by the Governor on the sixteenth.

The order in Council † July 7, 1704, was for payment of the allowance to Moody, and to allow to the town of York five pounds out of the tax levied on the town the previous year. The province treasurer's account ‡ shows the charge of ten pounds as paid to Moody.

Moody had been paid the previous year as chaplain at Fort Mary in Saco, at Casco Fort and in the eastern expedition, for fifty-nine weeks' service, as appears from the following entry in the province treasurer's account:—

"Paid Mr Samuel Moody as Chaplain at her Maj^{ties} Fort Mary att Saco & to y^e Marching forces & at her Maj^{ties} Fort att Casco 59. weekes in the whole 59^{ll} - - -."

—*Ibid.*, vol. 122, p. 191.

Chap. 15. This chapter is from archives, vol. 48, p. 366. It is recorded in council records, vol. VIII., p. 58.

In his speech to the Assembly of 1703-4, at the beginning of the fifth session, the Governor made no allusion to the subject of his salary nor was any action had thereon in either branch during that short session. That Assembly was dissolved April 21, 1704, the fifth and last session lasting but four days. Although in his speech at the beginning of the first session of the next Assembly the Governor continued reticent on the subject of his salary, the resolve which constitutes this chapter was passed in the House of Representatives on the sixteenth of June, and sent to the Council for concurrence. On the seventeenth it was concurred in, and consented to by the Governor.

The order in Council § for the payment of this allowance was passed July 7, 1704, and the province treasurer's account || shows that this grant and another of two hundred pounds, allowed by chapter 125, *post*, were paid to him in one sum of five hundred pounds.

Chap. 16. This chapter is from council records, vol. VIII., p. 58. It has not been found in the archives.

The order in Council † for the payment of this allowance was passed July 7, 1704. The following charge appears in his accounts as treasurer:—

* The following notice of it appeared in the first Boston News-Letter:—

"The 20. the Rd. Mr. Pemberton Preach'd an Excellent Sermon on 1 *Thes.* 4. 11. *And do your own business*: Exhorting all Ranks & Degrees of Persons to do their own work, in order to a REFORMATION: which His Excellency has order'd to be Printed."—*April 17-24, 1704, No. 1.*

A perusal of this admirably written sermon, — which was reprinted in his collected sermons, — intended to show the need of due subordination in the performance of diverse duties and callings in life, and specifically applied to the mutual relation of those who are invested with executive and legislative powers, leaves no room for conjecture why Dudley order'd it to be printed. It was a most opportune *carrot* against the inclination to usurp what he claimed to be the constitutional functions of the executive, which the House had been manifesting by its protests against his supposed infringement of its privileges.

† Executive Records of the Council, vol. 4, p. 39.

‡ *Mass. Archives*, vol. 122, p. 227.

§ Executive Records of the Council, vol. 4, p. 38.

|| *Mass. Archives*, vol. 122, p. 226.

"Paid my Selfe for my labour paines & service as Treasr of her Majties
Province the year 1703 pursuant to an act of the General Assembly. 200"
— *Mass. Archives*, vol. 122, p. 227.

Chap. 17. This chapter is from council records, vol. VIII., p. 59. It has not been found in the archives.

The receipt mentioned in the preamble to this chapter has not been found in the archives; but the order in Council,* July 7, 1704, shows the weight of the pork furnished by Mary Simpson to have been sixteen hundred and forty-five pounds, and in the province treasurer's account † she is charged with eight pounds as paid therefor.

Chap. 18. This chapter is from council records, vol. VIII., p. 60. It is preserved in archives, vol. 71, p. 55.

This order originated in the House June 21, 1704, and was sent to the Council for concurrence. It was concurred in, and consented to by the Governor on the next day.

Chap. 19. This chapter is from council records, vol. VIII., p. 60. It is preserved in archives, vol. 71, p. 54.

The proposal mentioned in this chapter was contained in the following letter directed "To Majr William Tailer in Dochestr," commanding the Suffolk regiments:—

"Woodstock Jun 9 1704.

Majr Tailer

Sr It being Committed to me to order some forces for y^e safety of our Upper Towns on y^e East side of Connecticut, I am desirous to accommodate as publike a good herein as may be, & propose whether this may not be Attained, If I Divide my scout (which are to Range from Hence to Mansfield Scantik Enfield Springfield Brookfield and Chiefly Northerly of sayd places) Consisting of 30, leaving about half for a standing party, for the Defence of this place, particularly, Changing them still as the scout returns once or twice a week that there may be fresh men to March; And for this shall only desire that at your Cost our men be provided for, The standing part at y^e severall Garrisons here as to Dyet And y^e Marching part with supper and Breakfast when they come in, which may be a Comfortable means of safety to y^e place, & these parts; which scout It is Intended shall be Continued (God willing) To Octob. where I find the Garrisons not sufficiently man'd If y^e Inhabitants go all about their businesse, there being but a man to most Garrisons, which Granted I hope the Neighbours here may some what safely follow their occasions, And If your Massachuset souldiers are call'd of, This Town cannot be lookt vpon Unprovided for, Also I would offer In the behalf of a particular Quarter here call'd y^e West Hill, That It might be obtain'd of His Excellency, they may have a Garrison Allowd them, who are too Remote to Come in to their Town, And their Circumstances too Difficult & Disheartening: Ovr Government is ready to take Care in all points for the scout but if so much more service be hereby to this place than any other, (And but proportionable to Its want) Belike something of this nature will be looked for of Ovrns And this Granted shall not hesitate to Improve them as aboue sayd, Sir I hope you will remember to oblige me with speedy return & please to give my Humble service to his Excellency, Accepting of The Tenders of my love & service to your Worship

Sir your Humble servt

pray Sir a speedy Return: in Answer herevnto —

JAMES FITCH." — *Mass.*

Archives, vol. 71, p. 54.

Dudley in his speech, June 1, 1704, at the opening of the Assembly described the operations on the frontiers as follows:—

"... The Frontiers of the Province are redneed to strict Garrisons and Covered with three Hunded & fifty Men, who meet every Day in small Parties from the two Extrems Woodstock & Wells: And if it were possible for me by any Means to bring the Queens good Subjects in the several Parts to their Duty in Watching & Scouting, I have no doubt We might be in a great Measure safe from the Incursions of the barbarous Rebels

The Advice from the Enemy on the Western Parts of the Province give Notice of their Approach & Settlement upon Connecticut River, Who must if possible be dislodged, And I beleive the Government of Connecticut will join a proper Force with some of ours for that End. . . ." — *Council Records*, vol. VIII., p. 47.

The "advice" referred to by the Governor was the news from Albany, sent by Captain Minor from Woodbury, Connecticut, and received May 18, 1704, that the enemy had "come over the lake & many Indians joining with them," † etc. The Connecticut volunteers were thereupon increased from one hundred and fifty to four hundred.

Connecticut followed the example of Massachusetts in patrolling her frontiers near the Connecticut River, and extended her scouts far beyond the limits of her territory. A company of thirty scouts under the command of Lieutenant Peter Aspinwall had been sent out by that colony to range the woods on the east side of the river, "according as the Committee of safetie shall order." § It is probable that these, or a contingent added to this force under the same general order, were the men that Major Fitch proposed to apportion as above, he being a leading member of the Committee of Safety for the county of New London, where Aspinwall's company was raised.

On the twenty-fourth of June Dudley wrote to Winthrop approving Fitch's proposal, and promising to adopt it if agreeable to Winthrop. ||

The order which constitutes this chapter was passed by the representatives on the twentieth of June, sent to the Council for concurrence and concurred in on the twenty-second.

* Executive Records of the Council, vol. 4, p. 39.

† Mass. Archives, vol. 122, p. 234.

‡ Winthrop Papers, part V., p. 206.

§ Colonial Records of Connecticut, 1689-1706, p. 465.

|| Winthrop Papers, part V., p. 231.

Chap. 20. This chapter is from archives, vol. 71, p. 57. It is recorded in council records, vol. VIII., p. 60. See the report of the committee appointed by this chapter in note to chapter 24, *post*.

Chap. 21. This chapter is from council records, vol. VIII., p. 60. It is preserved in archives, vol. 11, p. 192.

The resolves which constitute this chapter were prepared and passed in the Council June 22, 1704, and sent to the House for concurrence. On the same day they were read in the House and on the twenty-third they were read again, passed and sent back to the Council, and consented to by the Governor.

The doubt, to remove which these resolves were passed, had been rather increased than diminished by the failure to pass the following bill in addition to the act of 1692 for the better observation and keeping the Lord's day:—

“An act in Addition to ye Act Entituled an Act for ye better Obseruation and Keeping ye Lords day

Whereas in ye sd Act it is Enacted That all and Euery person and persons whatsoever shall on y^t day Carefully apply themselves to dutys of Religion and Piety Publickly and priuately, to which sd Article or Clause (it is apprehended) there is not in ye sd act any penalty Annexed:

Be it Therefore Enacted by his Exceclency ye Governour Council and Representatines in General Court Assembled and by ye Authority of ye same it is Enacted, That all and Euery person and persons whatsoever shall on y^t day Carefully apply them selues to dutys of Religion and Piety Publickly and priuately on pain y^t Euery person neglecting so to do shall forfeit and pay as a fine ye sum of fine shilling upon due Conviction thereof before ye Court of quarter sessions of ye Peace or any Justice of ye Peace within ye County where such offender dwels

And Be it further Enacted by ye Authority aforesd That no person or persons whatsoever shall presume either by land or water to do or Exercise any labour Business or work of their Ordinary Calling, or vse any Game sport play or Recreation on any publicke day of fasting or Thanksgiuing appointed and Ordered by ye Gener^l Court of this Province or by ye Govern^r and Council for ye time being (works of necessity and Charity only Excepted) on pain y^t euery person so offending shall forfeit ye sum of fine shillings for euery such offence upon due Conviction thereof as aforesaid, And ye Court or Justice before whome Conviction of any of ye offences aforesd shall be, & are hereby Impowpered and Authorized to Restraine or Comitt ye offender untill ye fine Imposed for such offence be satisfied or to cause ye same to be Leuied by distress and sale of ye offenders Goods by warrant directed to ye constable returning ye ouerpluss (if any be) And all fines and forfeitures accruing by vertue of this Act shall be to and for ye Benifit and releif of ye pore of ye Town where such offence is Comited.”—*Mass. Archives, vol. 11, p. 173.*

This bill which was read a first and second time in the House November 11, 1702, and on the next day read a third time, and passed to be engrossed and sent to the Council for concurrence, failed to receive the approval of the Board. It would seem, however, by the following entry that this bill, or another like it, was read in Council some two years later:—

“June 17, 1704. A Bill in Addition to the Act for the better Observation of the Lords Day, pass'd in the House of Representatives & sent up, Was Read.”—*Council Records, vol. VIII., p. 58.*

The progress of the bill was arrested at this stage, undoubtedly, because of the substitution of the declaratory resolves forming this chapter, which answered the purpose for the time being.

No trace of further legislative action upon this particular subject-matter has been discovered until the passage of the act of 1716-17, chapter 13, by which the purpose of the resolves was substantially effected by expressly prescribing a penalty for wilful neglect of public worship on the Lord's day.

Chap. 22. This chapter is from archives, vol. 62, p. 475. It is recorded in council records, vol. VIII., p. 61.

On the day the order was passed which constitutes this chapter the Governor, by message, summoned the Speaker and House to the council chamber, and “proposed That considering the present distressing Circumstances of the Province by Reason of the War, & the vast Charge they are at for Defence of the same, a suitable nimble Vessel be taken up & sent Express for England with Letters humbly to represent the State of the Province to her Majesty, & to pray her Maj^{ties} Favour for a supply of some Cannon Arms & Ammunition.”*

See chapters 26, 39, 40 and 42, *post*, and the note to the last.

Chap. 23. This chapter is from archives, vol. 71, p. 56. It is recorded in council records, vol. VIII., p. 61.

This was the commission proposed by the committee appointed in chapter 5 and approved of in chapter 8, *ante*.

See, further, chapter 35, *post*, and note.

Chap. 24. This chapter is from archives, vol. 71, p. 59. It is recorded in council records, vol. VIII., p. 62.

The resolve which constitutes this chapter was passed upon the following report and estimate of the committee appointed under chapter 20, *ante*:—

* June 23, 1704. Council Records, vol. VIII., p. 61.

"Castle Island: 23. June 1704

we haneing ben at ye Castle & veiwed the works there, are of Opinion that it is nedfull that their be three hundred & thirtten pounds raised to finish ye works at said Castle, besides the reparing ye Raneling before the north sally port the finishing ye mount before ye southeast poulder house & new leading the Gate house or armory, according to the Computation herewith emitted: with ye aduice of ye Committee for the sd^t Fortifications.

JOHN HIGGINSON
SAM^{LL} APPLETON
EPHRAIM SAVAGE
SAM^{LL} BROWNE
SAM^{UELL} CLAP." — *Mass.*

Archives, vol. 71, p. 58.

"at ye Castle Island 23. June 1704:

A computation made by the Comittie appointed by the Generall Court of what is necessary to finish ye Castle.

For ye long rome now in building to finish it about 80 thousand of Bricks.	
laying time & workmanship	200: 00: 00.
plank sleepers nayles windows workmanship & Glase for ye lower Rome	13: 10: 00.
For the roofte. Bords shingle nayles timber & workmanship	39: 00: 00.
planke sleepes & workmanship for ye uper flower & windows	10: 00: 00.
1 ^{lb} Great nayles	3: 00: 00.
Glase for ye uper Rome	1. 10. 00.
	<hr/>
	267: 00: 00

the angles of ye southeast & northeast flankers of ye lower Battery ye	
platformes wants ye value of	10: 00: 00.
3 paire stayers ouer ye prison rome & 2 Centry boxes	03. 00. 00.
to. fit ye armory Rome for a Chaple	10: 00: 00.
100 Foot. stockados. & a Gate by ye southeast poulder house	4. 00: 00.
planking 16 ports in ye botome	4: 00: 00.
200 fot stockados on ye southeast head for w ^{ch} ther is stockados	3. 00. 00.
For an office house	12: 00: 00
	<hr/>
	313: 00: 00."

— *Ibid.*, p. 59.

This report appears to have been read first, in the House, on the day the resolve was passed.

On the seventh of July an order was passed in Council * for paying to Thomas Brattle "of the Committee for the Fortifications on Castle Island" the three hundred pounds granted by this resolve, and the province treasurer's account† shows a charge to him of that amount.

Chap. 25. This chapter is from council records, vol. VIII., p. 63. It has not been found in the archives.

For an account of the arrival of some of the more recently committed of these prisoners see the note to resolve, 1703-4, chapter 117. The number of prisoners was soon after greatly increased by the captives of war sent to Boston by Colonel Church. See note to resolve, 1703-4, chapter 100.‡ See also the note to private act, number nineteen, for an account of proceedings relating to the exchange of these prisoners.

The following extracts from the executive records of the council show what arrangements were made for the comfort of these prisoners previous to their exchange, and the expense of keeping them down to the close of the year:—

"June 14, 1704. Upon consideration of the great number of French prisoners of War now within the Prison at Boston, and the danger of Infection by their close confinement, now in this hot Season of the year.

Ordered, that Jeremiah Dimmer, Edward Lyde & Samuel Lynde Esqrs three of her Majty's Justices of the peace forthwith take care by the advice and direction of Elisha Hutchinson and John Foster Esqre of the Council to rayse the fence about the Prison yard next the street, between the Stone Prison, and the house of Mr^s Eyre. And at both ends of the old wooden prison, and make up a shed within the sd^t yard, that the said Prisoners may have the benefit of the aire in the day time, as his Excellcy the Gov^r shall direct.

The accompt of the charge thereof to be laid before this Board, in order to be passed to the Treasury for payment." — *Vol. 4, p. 28.*

"Sept. 7, 1704. An Accompt of Daniel Willard Keeper of Her Majty's Prison in Boston, for the keeping and feeding of French Prisoners of War, from the 10th of April 1704. to

* Executive Records of the Conncill, vol. 4, p. 40.

† *Mass. Archives*, vol. 122, p. 226.

‡ "On Wednesday the 21. Arrived Mr. Hart in a Sloop from our Forces to the Eastward, with Letters from Col. Church, Chief Commander of the same, Dated at *Passamquoddy*, the 13. Current, acquainting His Excellency of their having laid wast & burnt all the French Settlements in those parts, kill'd and Captivated of French and Indians, to the number of thirty-five Persons, since our last account. While our People were Tearing up the Indian Corn, they fired on them from the other side of the River, and a fight at a distance continued about 3 hours, wherein we had one man Wounded, but a great noise was heard among the Indians, and 'tis supposed several of them were kill'd and wounded; the number of Indians are said to be between 30 & 40. Our Boats brought from the several Houses and Settlements, a considerable parcel of Plunder of Furrs, Household Stuff, &c. The best we have got yet: We have also taken Monsieur Chartier's Shallop, formerly Mr. Trevit's of *Marblehead*, and several fine Cannoo's. Our Souldiers and Mariners on board Her Majesties Ships the *Gosport* and *Jersey*, the Province Galley, and other several Vessels, were all in Health. The Prisoners are brought to Boston." — *Boston News-Letter*, No. 10 (June 26).

the 11th of July following, for charge of Doctors, Medicines and attendance on some of them when sick, amounting in the whole to Fifty five pounds, ten shillings and six pence; having been examin'd by the Commissary General, was presented — and.

Advised and Consented. That a Warrant be made out to the Treasurer to pay to the s^d Daniel Willard the above sum of Fifty five pounds ten shillings and six pence accordingly." — *Ibid.*, p. 65.

"Sept. 14, 1704. Ordered. That the Commissary General supply the French Prisoners of War with necessary cloathing to defend them from the cold, and lay the account of the charge thereof before the Board." — *Ibid.*, p. 70.

"Nov. 24, 1704. The House of Representatives having prayed his Excy that some of the principal of the French prisoners of War might be removed and sent down to the Castle, for the more safe keeping of them, and to prevent other inconveniencies, his Excellency acquainted the Council, that on this occasion it's necessary to make an addition of some few Centinels to the Garrison there for the Winter, to support the Duty, and for the better securing of the prisoners." — *Ibid.*, p. 112.

"Jan. 22, 1701-5. An Account of Daniel Willard keeper of her Majty's Prison in Boston for Feeding and keeping of French prisoners of War, from the Eleventh of July, to the seventh of Decr 1704. amounting in the whole to sixty five pounds, ten shillings and ten pence; having been examined by the Commissary General, was presented — And.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of sixty five pounds, ten shillings and ten pence to the s^d Daniel Willard accordingly." — *Ibid.*, p. 142.

One hundred twenty-one pounds one shilling and fourpence, the total amount named in this order and in the order, *supra*, of the seventh of September, is charged as paid in the province treasurer's account.*

The following is the record of Dndley's report to the Council (and the action of the Council thereon) of his reasons for sending Livingston, Shelden and Wells to Canada in the manner described in the note to private act, number nineteen : —

"Dec. 19, 1704. His Excellency acquainted the Council, that since their last setting and advice for sending Messingers to Quebec with Letters to the Governour of Canada, and to negotiate the affair about the Exchange of Prisoners, he had discoursed that matter with Capt^y John Livingstone, now in Town, who had been several times there, was well acquainted in the several parts, and the way thither from the upper Towns of this Province, which he accounted to be more safe than to Travail through the Eastern Country; and that said Livingstone would undertake that service accompanied with Mr Shelden and Wells, without any Frenchmen, to have a hundred pounds for his service, and his expences borne.

Upon consideration of the greater safety & certainty of this way, and the charge saved of a Vessel and Men that must necessarily be Employed the other way, besides the fitting out the Frenchmen, and the inconveniencies that might happen upon their going; as also the accomplishment of Capt^y Livingstone for such a service.

Advised. That he be employed accordingly.

And His Excellency communicated his Letters to the Govern^r of Canada, to be sent by them." — *Ibid.*, p. 128.

The despatches from Vandreuil and two of the three messengers sent to Canada which the Governor received as early as May 15, 1705, as described in the note to private act, number nineteen (and communicated to the Council), have not been found in the state archives; but the first is preserved in the *Collection de Manuscrits*, etc., from which it is translated in the note to chapter 36 of the resolves of 1705-6.

Chap. 26. This chapter is from council records, VIII. 64. See archives, 62. 476.

Although the committee were requested to conclude the purchase recommended by them no record of their compliance with this request has been found; on the contrary it would seem that their successors, appointed by chapter 39. *post*, concluded to purchase of a member of the committee a stancher vessel, the sloop Sea Flower. See note to chapter 42, *post*.

Chap. 27. This chapter is from council records, vol. VIII., p. 64, and archives, vol. 40, p. 798.

From depositions filed in some of the actions hereafter described, it appears that William Penn, wheelwright, mentioned in this chapter, removed from Birmingham, England, to Braintree, before the middle of the seventeenth century † and died in Boston on or about December 18, 1688. It also appears by one deposition that he was the son of Anthony Penn of Birmingham, shoemaker; that he survived his brothers, Guy, John and Anthony, and his only sister Elizabeth; that John and Elizabeth died without issue; that Guy left two children, — Elizabeth and Mary; that this Mary became the wife of James Ensor of Deritend, a village adjoining Birmingham, and survived her sister and her uncle William; that Anthony left several children, of whom only one son, Anthony, survived his uncle;

* Mass. Archives, vol. 122, p. 233.

† Savage (*Gen. Diet. sub nom. Penn*) is of the opinion that he probably came in the fleet with Winthrop in 1630. This, perhaps, he inferred from the list of original inhabitants of Charlestown (printed in Frothingham's *History of Charlestown*, p. 59). Wyman, a most scrupulous genealogist, agrees with Savage in supposing that the Charlestown William Penn removed to Braintree; but one of the neighbors of William Penn of Birmingham, England, deposed in 1700, when he was seventy-five years old, that the latter "went into New England" "above fifty years ago." This was deponent, who seems to imply that he knew Penn, could not have been more than five years old when the founders of Charlestown and Boston left England. Although the records of Braintree show that Penn was a landholder there as early as 1642, it is not probable that if at that time he had been here twelve years his former neighbors in Birmingham would have thought of the year 1650 in connection with the time of his emigration, nor that the deposition of one of them born in 1625 would have been adduced to prove his identity.

and that both this nephew, and the niece, Mary Ensor, were living at the date of the deposition.

In another deposition taken six years earlier and subscribed by one of the same deponents, the only brothers of William Penn mentioned are Anthony, and Thomas the father of Deborah; and the deponents aver that Anthony had died leaving an only son Anthony, and that Deborah had survived her brother John, the only other issue of her father, and was "married to Edward Hill, late of Birmingham aforesaid, cordwainer, but now of Boston, in New England." This apparent though not necessarily real discrepancy in the depositions arose from the fact that by the English common law of male primogeniture prevailing in the colony at the date of the alleged will, by reason of the revocation of the colony charter and the consequent abrogation of the colony laws of inheritance which regarded with equal favor collateral kindred of both sexes, it was only necessary to ascertain the nearest male heir in order to determine the succession. By the law of England Anthony Penn was unquestionably the sole heir, and could be divested of his title to the real estate of which his uncle died seised only by a testamentary instrument properly executed.

On the fourteenth of February following the decease of Penn, Edward Hill, who appears to have arrived in this country certainly as early as 1680, and who had risen to the dignity of clerk of the first Episcopal society in Boston, propounded for probate an instrument purporting to be the last will and testament of the deceased.

The following are copies, respectively, of the alleged will,* of the jurat, and of the formal "probate" or letters testamentary to which the will was annexed after probate:—

"In the Name of God Amen. Boston in New England December the Eighteenth One Thousand Six hundred Eighty and Eight I William Penn now resident in Boston being Sick and weak of body but of sound and perfect memory praise be Almighty God for the same—and knowing the uncertainty of this my life, and being desirous to make a reall and final Settlement of my out ward Estate which the Lord hath lent me upon good reason me thereunto moving, I do make and Ordain this to be my last Will and Testament in maner and forme following—That is to say, First and Peincipally I commend my Soul into the hands of Almighty God my Creator hoping to receive full pardon of all my Sins and Salvation through the alone merits of Jesus Xst my Redeemer and my body to be buried in such descent maner as my hereafter named heire and Executor shall think meet, willing that my body be buried at the Towne of Branterry in the Buryallplace, And as touching such worldly goods and Estate as the Lord hath lent me, my Will and meaning is that the same shall be employed & bestowed as hereafter in and by this my Will is Expressed.

Impr^o for good reasons me theren^{to} moving as namelly because that I sent for my kinds woman Deborah the wife of my Cuzen Edward Hill out of Old England promiseing to make her my heire, and I do hereby revoke renounce and make void all Wills by me formerly made and appoint this my last will and Testament.

Item I will that all the Debts I justly owe to all or any maner of person or persons w^{ho}soever shall be well and truly paid or ordained to be paid in Convenient time after my Decease by my Here after mensioned heire and Executor—Item I give unto the use of the Church of Branterry five pounds the one half in money and the other half in Country pay—Item I give unto the use of the school of Branterry Tenn pounds the one half in money and the other half in Country pay, Item I give to Deacon Thompson of Branterry Two pounds in Silver, and to his Son Edward I give five pounds in money Item I give to Mr Benja Thompson forty Shillings in money, and to every one of his Children now borne forty Shillings apiece in Silver Item I give to Stephen Paine of Branterry whom I made Overseer of my now revoked Will two pounds in Silver and to his Son Stephen five pounds the one half Silver, and the other half in Country pay, Item I give to the poor people in Branterry three Cows and I Order my heire to pay all these my Ordered Legacies within Eightteen Months after my decease. Item I give to my Cuz: Sarah Hill Fifty pounds in Silver to be paid on the day of her marriage or at Eightteen yeares of Age at her own Choice, Item I give to my Cuzen Edward Hill jun^r Fifty pounds in Silver to be pd to him when he is One and Twenty yeares of Age. Item I give to my Cuz Hannah Hill Fifty pounds to be pd at the day of Marriage, or when She attaines to Eighteen yeares, And I do give to my Cuz Edw^d Hill Sen^r all my houses and Lands household goods money and Chattles in whose hands soever they may be found and to be due to me now or will be due hereafter—I also give to my said Kinsman all and every other thing which is mine, although it be not named in this my Will It: I doe hereby nominate and appoint my well beloved kinsman Edward Hill Sen^r the Sole Execut^r of this my last Will and Testament hereby requesting him to use his utmost care and endeavour that this my said Will be duly performed in Testimony whereof I have hereunto Set my hand and Seal the day and year above written

Signed Sealed and what is above written was read to the said Penn in presense of us

THOMAS SEA

JOHN TUCKER.

The Marke X MARY MARSH.—*Mass. Archives, vol. 16, p. 423.*

"The within Will was presented by Edward Hill the Executor within named And Thomas Sea and John Tucker two of the Witnesses thereto appeared, and made Oath that they Saw the within named William Pen Signe and Seale and heard him publish and declare the within writing to be his last Will and Testament And that when he did the Same he was Of sound mind and memory to the best of their perceiving—

Sworne the fourteenth day of February 1688/9—

Before me

J DUDLEY.—*Ibid.*,

p. 422.

* Although by the English practice the original was not retained in the prerogative office, as is now the custom in Massachusetts, this will seems to have been filed with the register and to have been recently abstracted from the probate files. Of the transcripts extant purporting to have been made from the record, but differing somewhat from that and each other, a copy in the state archives, attested by Paul Dudley, register, has been followed here.

"The Probate of the Will of William Penn And administration granted thereon to Edward Hill Senr Exce^r in the same Will named.

Joseph Dudley Esq^r Commissioned by his Excy S^r Edmund Andros Kn^t Captain General and Governour in chief of his Ma^ys Territory and Dominion of New England. For the granting of Probates of Wills and Letters of administration within the s^d Territory. To all to whome these presents shall come or may concerne Greeting Know yee That on the Fourteenth day of February in the year of our Lord One thousand Six hundred eighty and eight. Before me at Boston in the County of Suffolke. The Will of William Penn late of Boston afores^d deeed to these presents annexed was proved, approved & insinuated Having while he lived and at the time of his death Goods Rights and Credits in divers parts of the s^d Dominion. For the obtaining whereof The administration of all and Singular the Goods. Rights and Credits the deceased or his Will any manner of wayes concerning was comitted unto Edward Hill Senr Exce^r in the same Will named Well and faithfully to administer the Same And for the making of full and perfect Inventory of all and Singular the Goods. Rights and Credits of the s^d deeed And the same to Exhibit into the Prerogative Office of the s^d Dominion at Boston aforesaid according to Law — As also for the rendring a plain and true Accompt thereof upon oath In Testimony whereof I have hereunto set my hand and the Seal of the s^d Office, Dated the day, year and place aforesaid —

J DUDLEY

J: WEST D Seery." — *Ibid.*, p. 428.

Joseph Dudley, commissioner or judge for the granting of probates of wills, etc., held that office by delegation from Sir Edmund Andros, his successor in the administration of the affairs of the territory and dominion of New England, who, by virtue of his office of governor, was supreme ordinary.

That no mention of a third subscribing witness was made in the jurat was unimportant, since, by the common law as it stood before the Statute of Frauds, any memorandum, though most informal and without subscribing witnesses, was sufficient to establish a devise if its due publication could be authenticated; and as that statute did not extend to the colonies *proprio vigore*, and was not adopted in Massachusetts until after the arrival of the province charter in 1692, the probate of wills in 1688 was granted according to the ancient law. Even by the obsolete colony ordinance of 1652, two witnesses only, and those not subscribers, were sufficient for the proof of any will.

There were, however, other important circumstances affecting the validity of this instrument which do not appear to have been brought to the notice of the judge. These were the part that the proponent took in its preparation (including his conduct towards the deceased just previous to his death); his direct interest in having the paper admitted to probate; his dealings with the subscribing witnesses; his omission to have it appear that there were kindred of Penn entitled to opportunity to object to the probate; and the fact that Penn had executed a former will unrevoked except by a provision in the instrument now produced.

About three years after the probate, some particulars transpired leading to the belief that the alleged will was a forgery, committed, after the decease of Penn, by Hill and one John Pottwine, a physician; that by the direction of these two the instrument was prepared by one Doctor John Lee; and that Hill had given his bond to Pottwine and the subscribing witnesses to pay the former for inventing the will and the latter for subscribing and swearing to its execution.

These suspicions being communicated to the heir apparent he sent over from Birmingham a power of attorney to Joseph Hill, "varnisher," and Richard Draper, "tobacconist," both of Boston, fully authorizing them to bring and defend suits in his behalf for recovery of the estate descended to him from his uncle, and to do all other things needful or convenient for the management of his property and interests in New England.

By this time a new government under the province charter had been established in Massachusetts, and probate courts had been erected in each county, to be held by a judge and register acting by a delegation of functions from the governor, according to the rule of the civil law to which all courts of ecclesiastical jurisdiction were subject. For the county of Suffolk, William Stoughton, who also held the office of lieutenant-governor and chief justice of the Superior Court of Judicature, was appointed judge, and Isaac Addington, who was at the same time secretary of the province and one of the justices of the Inferior Court of Common Pleas for the county, was appointed register.

On the twenty-eighth of March, 1691, therefore, Penn's attorneys applied to Stoughton for a revocation of the former decree of probate, as follows: —

"To the Hon^{ble} William Stoughton Esq^r Lientenant Governour of their Ma^ys Province of the Massachusetts Bay in New England and Judge of the Probate of Wills and Letters of Administration for the County of Suffolke.

The Petition of Joseph Hill and Richard Draper of Boston as lawful attourneys to Anthony Penn of Birmingham[*] in the County of Warwick within the Realm of England nephew and heir at Law apparent to William Penn late of Boston deeed —

Humbly Sheweth

That Whereas there was a Writing formed bearing date December 18th 1688. and pretended to be the last Will of s^d William Penn deeed and was accordingly presented by Edward Hill the Exce^r in the same Will named and two Witnesses sworn thereto the Februry following. And there are many Grounds of suspicion that s^d Writing is a Forgery contrived on purpose to debar s^d absent heir of his lawful right, who being at a great distance and having no one to appear for him, the s^d grounds of suspicion came not to the cognizance of the then Judge of the Probate of Wills in order to so strict an Examination of the Witnesses as the circumstances of the Case (had they been known) might justly require

Whereupon your Petitioners as Attourneys afores^d do humbly pray that they may have liberty to contest s^d Will and all the dependencies thereof, and that Witnesses may be cited

heard and examined with reference thereunto, and that s^d Hill may be put to answer s^d Grounds of suspicion and to prove s^d Will in proper form of Law, or else the same be declared null and void, according as your wisdom shall see meet to determine upon hearing the whole matter.

And yo^r Pet^{rs} as in duty bound shall ever pray &c

JOSEPH HILL
RICH^d DRAPER." — *Suf-*

folk Court Files.

Stoughton immediately gave his register, Addington, the following written order to issue citations:—

"S^r

The bearers being concerned in relation to the Estate of W^m Pen late of Braintry, & intending to bring the probate of a pretended will of his unto further examination &c.: pray citations to be granted to several persons in order thereunto, w^{ch} please to cause to be done, as they shall give you more particularly to vnderstand

March, 28th: 1694.

W^m: STOUGHTON." — *Suf-*

folk Probate Files, No. 2127.

The citations appear to have been made returnable on the fifth of April, when, after a hearing, the court passed the following decree:—

"Suffolk ss.

By the Hon^{ble} William Stoughton Esq^t Judge of Probate &c

Edward Hill Exec^r of the Will of the abovenamed W^m Penn being cited, and upon Examination of two of the Witnesses subscribed to s^d Will, and such other Evidences as were produced by each party. I dismiss the s^d Petition, nothing appearing at present sufficient in Law to induce me to make any alteration referring to s^d Will, leaving it as it is—

Boston April 5th 1694—

W^m: STOUGHTON." — *Suf-*

folk Court Files.

After this unsuccessful effort the prospect of recovering any portion of his uncle's estate would have been utterly discouraging to the heir had not this failure of his attorneys to procure a revocation of the probate of the spurious will apparently reassured and thrown off their guard the conspirators who had contrived the forgery and supported it by perjury.

Who the two subscribing witnesses were that appeared before Stoughton is nowhere mentioned; but it can scarcely be doubted that they were Tucker and Sea, although a deposition by the former, dated April 21, 1694, is on file showing that sixteen days after this hearing he was at Oyster Bay on Long Island. It seems almost certain that both these witnesses left the province soon after the hearing before Judge Stoughton, and that Tucker afterwards forwarded his deposition to be used by Edward Hill as occasion might require.

The evidence produced against the will at this hearing had been mainly hearsay or conjecture, and to sustain their suspicions of fraud the petitioners relied upon such facts and inferences as the following: that the deceased "did acknowledge near relations in England;" that the mark of the testator subscribed to the will was not of the form usually made by Penn; that Penn had declared, as his settled intention, that Edward Hill "should have none of his estate;" that Edward Hill's wife had declared to one witness who questioned the genuineness of the will that she and her husband did not claim to hold under the will, and that she had consulted another witness as to the advisability of sending her husband away "in case the will should be proved a forgery;" that Pottwine had declared that he "contrived the thing," and "that Thomas Sea had a bond of ten pounds for swearing to" the instrument.

By another deponent it was charged that Tucker had received a bond similar to Pottwine's; that the husband of the subscribing witness, Marsh, had said "that he knew said will to be a forgery;" that he refused to live with his wife if she perjured herself to sustain it, and that she had disclaimed all purpose to commit such wickedness, and that he had insisted on her rejecting a bribe offered by Hill to induce her to swear to its execution. The petitioners also relied upon the further fact that Thomas Sea, instead of acknowledging his signature, demanded of them "proof that he is a witness to said will;" that Doctor Lee, the scrivener, and his wife, had declared "that old Penn was dead before the will was finished;" that money was paid to Lee for writing the will and to the subscribing witnesses for signing it; and that Pottwine and Mr. and Mrs. Hill instructed Lee as to the testamentary disposition of the estate.

But before another year had passed other indications of the guilt of the conspirators transpired, so direct and circumstantial as in the judgment of the attorneys of the heir to warrant proceeding against them by indictment for perjury, conspiracy to defraud, and forgery, and to encourage him to attempt to recover the estates by proving his title before a jury. As above intimated, it seems certain that Mary Marsh failed to testify in open court or by deposition, either at the probate of the will or upon the hearing for its revocation, which of itself was a suspicious circumstance. About six months after the hearing Sea was in Newport, Rhode Island, where, in the course of conversation about the will, with one Phillips, he freely declared that Penn was dead before the will was signed, and that "it was a damned cheat." This his interlocutor deposed to on the twenty-eighth of November, before two of the leading magistrates of Boston. The next spring, Gilbert Colesworthy, husband of Frances Colesworthy, whose deposition was one of the "evidences" produced before Stoughton, made a deposition, which he subsequently swore to in open court, as to a conversation between himself and his wife after her return from Doctor Lee's, at the time the latter was drawing the will, in which she told of the merriment of the persons present on that occasion and of their unseemly eagerness to have the will executed. He added the results of his own observation of the hasty proceedings at the funeral, and that Lee had told him that Hill and his wife and Pottwine dictated the will; "that he [Lee] was not with old Penn about it," and that "they put a pen into the old man's hand and held his hand while he made the mark."

Though not disclosed in court, these fresh developments evidently were not concealed from those whose suspicions they confirmed; and those suspicions must have been still further strengthened by the fact that Hill relied upon two presumably fraudulent documents to sustain the will. One of these was a deposition, dated as far back as 1680, made before Governor Bradstreet, and Major General Daniel Denison one of the colonial assistants, by Richard Thayer of Braintree, a notoriously untrustworthy person, in which he averred that William Penn, on a certain occasion, had pointed out to him Edward Hill's wife as his kinswoman whom he had sent for from England to be his heir. The other was a full and absolute power of attorney from Penn to Hill, ostensibly executed about eighteen months before Penn's death, witnessed by "Jhon Poiduine"* and probably invented by Pottwine or by Hill. Both of these papers seem to have been deliberately contrived for the purpose for which they were now adduced.

Notwithstanding the inevitable presumption arising from these circumstances it seems to have been deemed prudent to wait for more conclusive evidence. The wisdom of this course was shown about ten months later, when some remarkable disclosures were made by one Ann Despard, who had entered the service of Edward Hill, as a domestic, shortly after Penn's decease.

From her deposition before Mr. Justice Samuel Sewall of the Superior Court, it appeared that Hill's wife, whose life had been made intolerable by his dissolute and wasteful habits, and particularly by the transfer of his devotion to Mary Marsh, had, in the presence of his servant, severely upbraided him, directly charging him with murdering her uncle, and then conspiring to make "that devilish will," by which she had been deprived of her rightful inheritance and both of them made "slaves unto a parcel of rogues," and had incurred the curse of God for their wickedness, and she declared that she was "no more regarded than a dog by" him, "nor by that rogne Pottwine," and that she had "better live in hell than live with him any longer." In her rage and despair she threatened to drown herself, but was thwarted in the attempt by the deponent and the witness Tucker, — who boarded in Hill's family for a twelvemonth after the probate, by agreement with Hill, as part recompense for his testimony, as the deponent declared she had heard him assert to Mrs. Hill. The deponent testified to other damaging statements made by Tucker. One was that Hill gave him his bond for ten pounds, for the payment of which he was tired of waiting. This was coupled with a threat to assign the bond to one who would put it in suit, which coming to the knowledge of Mrs. Hill, the bond was paid, and further to conciliate Tucker he was furnished with a new suit of clothes, whereupon he departed for Rhode Island — Pottwine lending him his horse to carry him part way. Sea, also, according to her testimony, demanded ten pounds of Mrs. Hill, on a similar bond to him, threatening, if he was put off any longer, to divulge "the business," which threat Mrs. Hill reported to her husband, saying, "some course must be taken to pay Sea or else he would discover all." Hill treated Sea's menace with professed indifference, declaring Sea can do us "no hurt; now the business was done and he [Hill] had got the estate in possession, all that Sea could do by a discovery would but bring his own ears to the pillory, and therefore he did not fear him."

Edward Hill having, both before and after Stoughton's decree, made sundry conveyances † of the lands which he claimed by devise, the attorneys of the heir determined to avail themselves of the above new evidence, and of such additional proof as they might be able to adduce in the course of the trial, first, in a civil suit against one of these grantees.

Now, by the common law, a devise could be established by evidence in any proper action at law; and this evidence must be produced anew in every new trial. While the common law prevailed here during Andros's administration, this was undoubtedly the rule in Massachusetts, but the province charter, by conferring upon the Governor and Council authority to "doe execute or performe all that is necessary for the Probate of Wills," etc., had impliedly deprived the common-law courts of jurisdiction over matters pertaining to the courts of probate, and this separation of functions was rendered still more conclusive by certain acts ‡ of the provincial Legislature, ratified by the Privy Council, directing that appeals from the probate courts be made to the Governor and Council. But this operation of the charter was not at that time clear either to the bar or the bench, though it gradually came to the apprehension of both in the course of the proceedings which follow in this narrative.

Penn's attorneys, therefore, commenced a suit against Clement Cock, one of the above-named grantees, for the recovery of the message conveyed to him by Hill. The action was brought in the Inferior Court of Common Pleas for Suffolk County. The writ was dated March 11, 1696-7, and was returnable at the April term, 1697. Anthony Checkley, attorney-general, who had succeeded Thomas Newton in the prosecution of the alleged witches, five years before, appeared for Penn, the plaintiff, and Benjamin Bullivant, apothecary and lawyer, one of the founders and first churchwardens of the parish of which his client was clerk, and who had held the office of attorney-general during the short presidency of Dudley, appeared for Cock, the defendant. The declaration was "trespass upon the case;" for that the defendant "hath illegally entered into the possession and keeps . . . the plaintiff out of the possession of a certain piece or parcel of" land (describing the premises) "now in the possession and occupation of the" defendant, "which said woodland and meadow the said William Penn died seised of in his own right in fee simple and now of right descends to the plaintiff (heir at law unto the said William Penn deceased), yet, notwithstanding, the said Clement Cock unjustly keeps the plaintiff out of, and withholds the possession of, the said woodland and meadow from said plaintiff; and said plaintiff is thereby damaged one hundred pounds in money," etc.

The plea of the defendant was as follows: —

* Possibly Pottwine's son — the spelling and handwriting being quite unlike those of the Pottwine who "contrived" the will.

† September 10, 1680, and October 18, 1692, to John Bowditch, and February 14, 1693-4, to Clement Cock, both of Braintree; May 7, 1695, to Captain Samuel White of Weymouth, who, December 6, 1698, conveyed to John Hollis of Braintree; and February 27, 1696-7, to Thomas and Samuel French.

‡ 1692-3, chapters 14, § 1, and 46, § 1; 1696, chapter 8, § 2.

"The Defend^t pleads he holds possession by a deede of purchase from Edw^d Hill Execut^r to y^e Last will & testam^t of W^m Penn B:B. p^t defend^t." — *Ibid.*

The case was given to the jury with a ruling of the Court that the testimony of all three subscribing witnesses was not necessary if the fact of their subscription appeared by the testimony of two only, which indicates that the chief point in issue was as to that section of the Statute of Frauds* which required that all devises be attested by three or four subscribing witnesses.

The jury found for the defendant, and the plaintiff appealed to the Superior Court of Judicature to be held on the twenty-seventh of the same month. The plaintiff's reasons of appeal and the defendant's answer thereto, given below, are curious as illustrating the progress of the art of pleading in our highest judicial court: —

"At A Superior Court of Judicature holden in Boston Aprill 27th — 1697 Anthony Pen his Reasons of Appeale from y^e Judgm^t of the Inferior Court of Comon pleas held in Boston Aprill 6th — 1697, Where Said Anthony Pen was p^t — And Clement Cock defendant, The Action was An Action of Trespass vpon the Case for keeping the p^t out of possession of A Certaine p^{ce}sell of land, to which he Clames a Right p^{er} decent as Heir at law to William Pen late of Braintr^y deceased, The plea was that the defendant holds possession p^{er} virtue of A deed of Purchase from Edward Hill Executor to y^e last Will & Testament of W^m Penn, The Judgm^t was for y^e deff^t Costs which Judgm^t is Eronious & to our damage, from w^{ch} we Appeale And Say

1: That William Penns will is Not Sufficiently proved to Impow^r the Executor to Sell Penns land, The witnesses are Not Such Credable Witnesses as the law Requirs for y^e proof of A deuce of lands we humbly thinke, the word Credable Witnesses Requires that witnesses to A denice Should not only be free from Subornation, perjur^y, Stigmati^{co}n, or Such like flagitious Crimes or markes of Infamy — But that they should be of A good Reputation, Competent Judgm^t to know whether y^e Testator at y^e making y^e Will & Testament was of A sound minde & memory And that he did it freely without being Influenced by feare fraud, flatter^y or Coaction of others Evidences to A denice of land, must be So Credable as to Anoyd frauds & perjuries — & therefore not frandelent, or perjured or any ways Vncredable —

2- The witnesses Are not Sufficient in number, the Statute Requirs 3 or 4 Credible Witnesses to proue A deuce, we thinke that A Wittness or witnesses to A denice must be Sworne before they Can be helened as legall Credable Witnesses or else it were in vaine euer to swere Any wittness to A denice,

ANTH^o CHECKLEY for y^e Apell^t." — *Ibid.*

"Suff^o ss. To the Hon^{ble} his Majesties Justices of the Super^r Court of Judicature holden at Boston for the said County on y^e 27. Apr: 1697

Clement Cock. appellee his answer to the reasons of Appeale from the Judgement of the infer court of pleas holden in Boston on the 6th day of Aprill 1697, (given into this court by Anthony Penn appellant) wherein Anthony Penn was p^t & Clement Cock defend^t. The action was an action of trespass upon the case for Keeping the p^t out of possession of a Certain p^{ce}ll of Land to w^{ch} he clames a Right per descent as heyre at Law to W^m Penn late of Braintry deceased. The plea was, that the defend^t holds possession by virtue of a deed of purchase from Edward Hill execut^r to y^e Last will & testament of W^m Penn. The Judgement was for the Defend^t Costs. from w^{ch} they appeale, and have shewn forth they^r Reasons, & unto which we Answer & say. Vizt

To y^e 1: Reason, wherein the appellant saye — W^m: Penns will is not sufficiently proved to empower the Executor to sell Pen's Land &c.

The Appellee Answers. This is but a cavill to oust the Terre tenant from his possession, and right under the Executor who entred into possession of his Uncle Penns estate by good title, namely by the gift & bequeathment of W^m Penn in his Last will & testament & in w^{ch} will he is made his Execut^r & w^{ch} will was proved, approved, past the Seale of y^e office of probate, & recorded about 7 or 8 yeares Since. Nor is it any thing more to the purpose to tell us y^e witnesses required by Law to a will, should be credible witnesses, free from Subornation, perjury, or being Stigmatized for any flagitious crimes, and that they should be of good reputation, Competent judgement &c. all this we readily grant, & admire the Rhetoricall part, But as yet our witnesses are not proved to have these or any the Like flagitious or other qualifications, whereby they should be disenabled from being good witnesses in the Law. & therefore the Deed & will shewed forth in the Late Court in y^e defence of our title is good in Law to all Intents & purposes on our side, & the Judgement given for us to have Costs, is just, true, valid, & Right & ought not to be Reversed./

(2). To the Second Reason, wherein they would insinuate to y^e Hon^d Court & Jury that the witnesses are not Sufficient in Number, because y^e Statute requires 3 or 4 credible witnesses. We answer that Surely Anthony Penn wanted his Spectacles, when he asserted this for one of his Reasons of Appeale Since any Schooleboy of 7 yeares old might tell, that Tucker, Sea, & Marsh make 3 persons. And though the Law doth require 3 at Least to be present & wittnesse The testators act when he signs, Seales, & publishes, & declares his Last will & testament Yet it doth not require that every one of these 3 be sworne to y^e probate of the will, for one, or 2 swearing at the probate, y^t they were present & saw the third there also is good & Legall prooffe as was the Opinion of the Judges on the tryall of this case before them in the Late inferior court of Comon pleas. But to obviate all Difficulties as to that matter, the 3^d person namely Mary Marsh (a wittnesse to the before Controverted will) & who was sick, & out of towne, at y^e time of y^e Probate, & hindered by the act of God from attending that service at that time, is now ready in her own p^{er}son to Corroborate the said probate, though before good & valid in the Law to all intents & purposes, And All cavills against it dismissed on a 2^d hearing lately before y^e Hon^{ble} Judge of Probats

* As has already been stated the English Statute of Frauds was inoperative here; but this statute had been substantially re-enacted here in 1692. — Province Laws, 1692-3, chapter 15. This, however, was nearly four years after the alleged execution of the will.

& therefore y^{or} Appellee humbly hopes this Honoured Court & Jury will see very just Cause to Confirm the former Judgement and Dismiss him with his Additionall Costs./

BENJA: BULLIVANT Attorn^y

¶ Clem^t: Cock appellee." — *Ibid.*

The record of the judgment of the Superior Court concludes as follows:—

"Both partys now appeared by their Attournys; and the Writ, Inferiour Courts Judgment, Reasons of Appeal, Evidences and Allegations on both sides being fully heard, The Case was Committed to the Jury who were sworn according to Law to try the same; and Returned their Verdict therein upon Oath That is to say, They find for the Defend^t Confirmation of the former Judgment, and Costs of Courts. It's therefore Considered by the Court, That the s^d. Clement Cock shall recover against the s^d Anthony Penn Costs of Courts taxed at Three pounds Eleven shillings & four pence." — *Records of the Superior Court of Judicature, 1686-1700, p. 109.*

Pending these proceedings, or before, clews were obtained to still more damaging evidence against Hill. John Chadwick who had deposed at the hearing before Stoughton that Pottwine had confessed to inventing the will, now further declared that Pottwine had told him that if he told all he knew concerning Hill, the latter would have to "fly for it or he would be hanged," for that Hill went up stairs to where Penn was lying sick, just before his death, "and made the poor old man cry out,"* and when he came down again he brought a purse of money in his hand, and said "look here, I have gotten some of the old rogie's money." Lambert Despard, husband of Ann, whose important deposition before Judge Sewall has been described above, declared that as early as 1693 Pottwine had solemnly protested to him that he "got Penn's estate for Edward Hill, and that he was to have three hundred pounds for his pains and to marry said Hill's daughter, and that if he had not been a fool he might as well have got it for himself." He also corroborated the testimony of his wife as to the demands made by Sea and Tucker for the payment of their bonds; to the threat made by Tucker, and of his claim on Hill for board as by agreement; and to Hill's wife's charging her husband with the murder of her uncle. He also told of Pottwine's repeated declarations that he knew he could hang Hill if he would; that "for any bodily disease or distemper" Penn might "have lived several years longer;" and that he had often heard Sea say that he was to have received ten pounds for swearing to Penn's will, "of which he never received but forty shillings."

As has been shown, Tucker left the province soon after the probate of the will. Sea, who, as has been said, was in Newport in 1694, appears to have returned and again absconded sometime in 1696. Only Mary Marsh (if, as the evidence implies, she had preferred the home of Edward Hill to the society of her own husband) and the chief conspirator, Edward Hill, remained. As Mrs. Marsh had not at any time testified to the execution of the will she could not be charged with perjury, as could Tucker and Sea, nor was there sufficient evidence to sustain against either her or Pottwine an accusation of criminal conspiracy — at least until after an attempt to convict the principal offender. Moreover, it seems that Pottwine, who had married Hill's eldest daughter Sarah, — thus far corroborating the testimony in regard to the reward he was to receive for his agency in contriving the will, — had gone to England.

It is probable that by this time Marsh had removed to New York, so that neither he nor Tucker could be brought to testify in court, nor the latter be brought to the bar — there being then neither law nor comity between the colonies by which extradition of witnesses or of persons accused of crime could be effected.

Tucker's deposition, however, which Edward Hill had procured in April, 1694, was still available in Hill's defence. Sea probably stood ready to appear, when wanted, to corroborate Tucker, since, as will hereafter be seen, he was actually in Boston at the time of the trial of Hill upon the indictment hereinafter described.

Under these circumstances it would seem that the declarations of Edward Hill, Marsh and Sea (in case the latter failed to appear as a witness), though hearsay, were thought admissible, as being the best evidence obtainable. Accordingly all the statements furnishing additional clews were reduced to writing and sworn to in court by the several deponents, including Joseph Hill, who now further swore that Marsh had declared to him that Pottwine, in his presence, had told the subscribing witnesses, after the will had been placed upon the dead man's lips and then taken away, that "they might lawfully swear that these were the last words that came from his mouth."

A significant memorandum, made by the clerk on a copy of the record of this case, is the following, which indicates that Mrs. Marsh had at length appeared as a witness, either in court or before the clerk:—

"M

Memorandum that this mark was made in Court by Mary Marsh at the time of the Tryal of this Case; and she affirmed upon Oath that this was hir usual mark —

Att AD^r DAVENPORT Cler." — *Suf-*

folk Court Files.

The urgency that brought her to this was the institution of criminal proceedings against Edward Hill.

On the day after the trial of the action against Cock in the Inferiour Court of Common Pleas, a warrant for Hill's arrest, to answer to a "presentment by the grand inquest for the body of this County of Suffolk", had been issued, returnable at the Court of Sessions on the eighth of April. This indictment, on which Hill was to be tried at the same term and court at which was to be heard the appeal in the case of Penn, has not been found on file, but the following copy of the record of the case sufficiently shows its import. —

"Anno RR^e Gulielmi Tertii Anglie &c nono.

Suffolke ss.

At his Mat^{ies} Superior Court of Judicature Court of Assize and General Goale Delly-

* A word here is cancelled which may be "murder."

ery holden at Boston for the County aforesaid on the last Tuesday in April 1697. being the 27th day of s^d month.

Before the Hon^{ble} Thomas Danforth,
Wait Winthrop.
Elisha Cooke, &
Samuel Sewall } Esq^{ts} Justices —

Edward Hill of Boston Cordwainer was presented by the Grandjurors for Our Sovereign Lord the King upon their Oaths for that the s^d Edward upon or about the Nineteenth day of Decemb^r 1688 in Boston afores^d in the County of Suffolk afores^d, did falsely by false Conspiracy and fraud with others That is to say with Thomas Sea and John Tucker Two false Witnesses by him Suborned did wittingly and Subtilly the writing by him called the last Will and Testament of William Penn late of Boston afores^d decess^d bearing date the 18th day of Decemb. 1688 did falsely forge and make or wittingly did assent to be forged and made to the Intent that the estate of freehold or Inheritance Right Title and Interest of the estate and Interest of Anthony Penn of Birmingham in the County of Warwick in y^e Kingdome of England who is heir at Law to William Penn afores^d, And hath right to the estate both Reall and Psonall, That did belong unto the s^d William Penn decess^d, of which he dyed Seized in fee and possessed of in his own right, should be molested troubled defeated, Recovered; by which and afterwards publishing & proving the afores^d false and forged Will, the estate is defeated & recovered by the s^d Edward Hill, and kept from the s^d Anthony Penn unto whom it doth belong and appertain, unto the said Anthony Penn's damage fifteen hundred pounds in money, and ag^t the peace of Our Sovereign Lord the King, and against the Statute and the Law of this province in that case made and provided. — Upon w^{ch} Indictment the before named Edward Hill was arraigned, and upon his Arraignment pleaded Not Guilty; and put himselfe for Tryal on God and his Country: A Jury was accordingly Sworne Joseph Elliot foreman (no challenges being made by the prisoner); And the Indictment being read, and the Evidences for the King and likewise the prisoners Defence fully heard; The Jury went out to agree on their Verdict; who Returning did in Open Court deliver their Verdict upon Oath; That the s^d Edward Hill is Not Guilty." — *Records of the Superior Court of Judicature, 1686-1700, p. 118.*

*Dom. Rez.
ver.
Edward Hill:*

The grounds for this verdict of acquittal and for awarding Clement Cock the judgment on appeal are not stated. The want of evidence against Edward Hill, more positive and direct than his own declarations and the admissions and declarations of his accomplices, was probably the fatal defect in both cases, and the inferential proof was not allowed to preponderate against strong circumstantial evidence, and the positive sworn deposition of Tucker, which appear to have been adduced in rebuttal. Sea, who seems to have again returned to Boston as a witness for Hill, does not appear to have been called upon to testify; but on the day on which Hill was arrested for forgery, etc., he, also, was taken into custody on the charge of perjury, which gave him opportunity to avail himself of his privilege of exemption from testifying to any circumstance likely to criminate himself. There is no record of his trial on this indictment, which was placed on file where it still remains. It ran as follows:—

"Suffolke ss

At A Court of Assize & generall Goale deliuey^r holden in Boston for the County aforesaid April 27th 1697 —

Anno; RRs Gulielmi iij Nono —

The Jurors for our Sou^r lord the King Present —

That Thomas Sea of Boston Butcher, vpon the fowerteenth day of February in the Yeare of our lord: one thousand six hundred Eighty Eight in Boston aforesaid, by the Subornation & vnlawfull procurum^t Sinester p^rswation & means of Edward Hill of Boston Cordwainer, did Willfully & Coruptly, Willfull perjury Comitt by his deposition taken before Joseph Dudley Esq^{ur} Judge of y^e Probate of Wills & granting letters of Administracon in the province of the Massachusetts Bay in New England which deposition he the Said Thomas Sea did giue as A witness to A wrighting Sealed Called the last Will & Testam^t of William Pen then Resident in Boston — bareing date december 18th — 1688 And did Swere that he the Said Sea was present & did See William Pen aforesaid Signe seale & publish the Same to be his last Will & Testament And that he was of A sound disposing minde when he so did which Oath is false, for that the Said William Pen nener made the Said Pretended Will nor nener signed Sealed or published the Same to be his last will & Testm^t By meanes of which false Oath & perjur^y of the said Thomas Sea The afores^d Wrighting was proued & Aproned by the Jndg of Probates aforesaid And therby the Estate of the Said Anthony Pen Heire to said W^m Pen was defeated, & Edward Hill Wrongfully poeost of the same And vnjustly keeps the Right heire out of the posession of the Same, Which perjur^y is Against the peace of or sou^r lord the King & Against the Statutes & y^e law of this province in that Case made & prouided And to the said Anthony Penns damage fifteen hundred pounds in money

Witnesses are:

Francis Coleworth^y
Joseph Hill —
Lambert Despart
Ann Despart
John Chadwick —

Mary Briggs —
Edward Thwing
Gilber Coleworth —
Mary Critcheild
Thomas Phillips

Billa Vera. — *Suffolk Court Files.*

Criminal proceedings against Sea, however, were not abandoned. At the next October term of the Superior Court another indictment was found against him, as follows:—

"The Jurors for or Sovereign Lord y^e King P^rsent Th^y Say of Boston Butcher for that he the s^d Th^y Say at or upon y^e 18th of Decemb^r 1688 In Boston afores^d then and there wilfully & wickedly did contrive & Subscribe to a paper or pretended last will & Testament of Will^m Penn late of Boston afores^d; In consideration whereof he y^e s^d Th^y Say was to receive & have y^e Summe of Six or Ten pounds thereby to defraud & cheat Antho

Penn of Burningham y^e true & rightfull heir of & from his Inheritance against y^e peace of or Sovereign Lord y^e King & against y^e Laws of this Province in that case made & provided.//

Billa vera." — *Ibid.*

Probably Sea had again disappeared after the April term of the Court, since the warrant to the constable of Boston for his arrest to answer to this presentment of the grand jury bears date July 22, 1698. Five days after this date, Sea either voluntarily appeared, or was brought, before Jeremiah Dummer, a justice of the peace, and "committed to the prison in Boston for want of security." His trial took place at the next (October, 1698) term of the Superior Court, and ended in his acquittal and discharge.

While Sea was thus being prosecuted, Penn's attorneys continued to pursue their civil remedies against Cock. Having failed in the appeal, they resorted to the only civil process remaining untried; that is, an action of review.

The act* for reestablishing the courts gave either party to any civil action the right to review it once in each of the courts in which it had been tried, and so, availing himself of this privilege, Penn sued out a writ of review against Cock, bearing date April 11, 1698, and returnable before the Superior Court, at Boston, on the last Tuesday of the same month. This final contest with Cock was the first in which the heir came off victorious. He succeeded in getting judgment for the land conveyed by Hill to Cock, and was put in possession thereof by the sheriff August 2, 1698. The conclusion of the record in this case is as follows: —

"The Defend^t appeared by Benj^e Bullivant his attourny; and pleaded That the Judgments sought to be Reversed by this Writ are good and just, and ought not to be reversed; are in no wayes erroneous but ought to be affirmed. The Writ Defend^ts plea former Courts Judgments Deeds Evidences and Allegations on both Sides being fully heard, The Case was committed to the Jury who were Sworne according to Law to try the same; and returned their Verdict therein upon Oath That is to say, They find for the pl^t possession of y^e Land in Controversy, and Costs of Court. Its therefore Considered by the Court That the pl^t Anthony Penn shall recover ag^t Clement Cock the Defend^t possession of the Land in Controversy; and Costs of Court taxed at Two pounds Nineteen Shillings and Three pence." — *Records of the Superior Court of Judicature, 1686-1700, p. 173.*

The acquittal of Sea and Hill seems not to have been deemed a reverse so great as to extinguish in the minds of Penn's attorneys the hope of eventual success in their civil proceedings which this judgment on review had inspired. There are indications in the record of this action of review, and of later actions brought against others claiming under Edward Hill as devisee, that the Court had not recognized the effect of the charter provision in respect to probate jurisdiction and appeals, but had adhered to the common-law doctrine that the decree of the probate court was not conclusive, and that the will might be impeached in any issue at law in which its genuineness or the regularity of its execution was directly involved in proving a devise. By the intimation that this view was entertained by the bench, the heir and his attorney were encouraged to believe that Cock's case would prove a binding precedent. They therefore decided to bring other actions to recover the real estate granted by Hill as devisee.

At that time the Superior Court of Judicature and the Inferior Court of Common Pleas had concurrent original jurisdiction of such cases. Penn's attorneys brought suit in the higher court for the recovery of lands, against John Bowditch. They also brought a joint action against Thomas and Samuel French, whom they had sued in like manner, in the same court and for the same cause of action, at the October term of the year before, and again at the June term of the present year; but had suffered nonsuit in each case. All these defendants claimed title under Hill.

The writs in these last actions were dated October 10, 1698, and were returnable at the same term at which Sea was tried upon his second indictment. The declaration in each case was "trespass on the case," as in the original suit against Cock, but the pleas instead of affirming the defendant's title denied the descent of the land to the plaintiff, as follows: —

"The Defend^t pleads that the Land & prmisses in question doe not descend to the pl^t in manner & forme as he hath sett forth in the attachm^t." — *Ibid.*

Apparently the cases were committed to separate juries. In the case of Bowditch, a verdict was returned for the defendant, who recovered costs. The second jury, however, brought in their verdict that "they find for the plaintiff the land sued for and costs of court," which, in the record of the judgment, were taxed at £4 10s. 6d.

Each of the defeated parties in the above cases now brought writs of review returnable at the Superior Court to be held on the last Tuesday of April, 1699. Penn's writ against Bowditch was dated March fourteenth, and the Frenches' writ was dated April eighth.

At the trial of Sea upon the second indictment some new evidence, tending to sustain the theory of forgery and conspiracy, had been put in which must have strengthened the plaintiff's hopes of ultimately prevailing. Some of the depositions in which evidence of this kind was shown are missing from the files; but the deposition of Doctor John Lee, the scrivener who drew the will, corroborated Joseph Hill's testimony as to Pottwine's declaration that but for him his father-in-law would not have had "any more right" to Penn's estate than he. Lee also deposed that Pottwine had requested him to say to Hill "that if he would not give him sixty or more pounds in money then he would overthrow that will;" but that he studiously evaded all questions concerning the knowledge he had formerly professed as to the spuriousness of that instrument, and had given as his reason for

* Province Laws, 1697, chapter 9, § 3.

† This was the form of Bowditch's plea. In the Frenches' plea (which was probably drawn by John Leverett, a leading member of the House of Representatives, elevated to the bench of the Superior Court a few years later, and later still one of the Executive Council, but better remembered as President of Harvard College and one of the few early Americans admitted to fellowship in the Royal Society), the words "and prmisses" were omitted.

not subscribing as a witness, that he was about to marry Hill's daughter. The deponent testified that his own suspicions as to the genuineness of the will had been awakened some two years after its execution, and that he then told Pottwine that he "feared that the signing" thereof "was not rightly performed." He now recalled the fact that Edward Hill had dictated its provisions, had called for the completed draught in a hurry, "but desired not the deponent to go with him," and that "on the fore part of the next day," he "heard that said Penn was dead." Richard Gridley's deposition was purely hearsay; but in it he averred that one Elizabeth Critchfield had stated that she was knowing to the drawing of the will and that it was brought to the place where Penn lay dead, and that Edward Hill took the dead man's hand and guided it to make the mark which was supposed to be Penn's own act.

This cumulative testimony in the plaintiff's favor, which was undoubtedly availed of in the actions of review, would seem by what appears on record to have had its full influence upon the Court.

The cases came on for trial on the return day, April twenty-fifth, when the jury rendered the following verdicts: for Bowditch, "the jury find for the defendant costs of court;" and for the Frenches, who were the plaintiffs in review, "the jury find for the plaintiffs possession of the lands sued for and costs of court." As the former affirmed the verdict in the original action, and the latter reversed the previous verdict, both seem to have been contrary to the law as expounded to the jury by the judges, who evidently still held to the doctrine that a devise might lawfully be set aside in a suit at common law notwithstanding the probate of the will. The Court, therefore, ordered the actions to be continued, directing the jurors to reconsider their verdicts. The following memorandum of this ruling was entered upon the record just after the case of Bowditch, which appears to have been last recorded:—

"Upon Delivery of the two foregoing Verdicts, the Justices sayd to the Jurors that they Observed their Verdicts did not agree with the Law, nor the Evidences in the Case and therefore desired them to Reconsider the Case."—*Records of the Superior Court of Judicature, 1686-1700, p. 251.*

At the same term an action was entered by Penn against John Hollis, for recovery of the lands derived by him from Hill. The writ was dated March 20, 1698-9, and the declaration was substantially the same as in all the former suits. A new name, however, appears as counsel for the defendant. This was Thomas Newton, an accomplished lawyer, who had a greater influence in molding our early jurisprudence than any of his contemporaries. He did not adopt the form of special plea put in by the other counsel for the defence, but regularly pleaded the general issue, thus: "The Defend^t pleads not guilty in manner & forme as is sett forth in the writt."^{*}

No minute of the entry of this action has been found in the record, but the writ itself bears evidence that it was entered and the case continued. The continuance of these cases beyond the term was made imperative by the tidings received on the twenty-sixth, and communicated to the Council by the Lieutenant-Governor on the twenty-seventh, that the Privy Council had disallowed the provincial act[†] of 1697 for establishing courts of justice, by which decision the whole judicial system was abolished.

Some evidence still further derogatory to the claim of the devisee seems to have been adduced in the trials at this term. In a second deposition Ann Despard averred that she had seen Mrs. Hill deliver a pair of stockings, a hat and haband to Sea, after he had made his threats, for the purpose of keeping him from divulging the fraud concerning Penn's will. She also defined the phrases in her former confession so as to have them apply unequivocally to Penn's alleged will and to connect the persons and circumstances named in that deposition with the criminal contrivance and the probate of the instrument under which Hill claimed as devisee. Both she and her husband explicitly deposed that Sea had declared to them that he was to have ten pounds for swearing to Penn's will; and the latter reaffirmed that Sea had as often complained that he received only forty shillings. Thomas Banister deposed that Mary Marsh had declared to him that her professed inability to recognize her mark subscribed to the alleged will was not because she could not tell her mark, but because she "would not swear to that will for all the world."

A new Superior Court of Judicature was established by the act[‡] passed June 26, 1699. Sewall § records that he received his commission as one of the justices of this Court on the twenty-fifth of July following. By this act terms were to be held in Suffolk, in May and November, annually. On the fifth day of the November term the Court adjourned to the twentieth day of the month, and then ordered that the cases between the Frenches and Penn, and Penn and Bowditch "be tried at this Court;" but the parties not being all present the cases were again continued to the next (May) term. The case of Penn *versus* Hollis was continued in like manner, on motion of the defendant, "that he may have time to summons the person of whom he bought the land and premises sued for, to defend the same." The name of Samuel White, Hollis's grantor, immediately follows, on the record, as defendant at the suit of Penn, but the entry closes with this memorandum: "the defendant being dead the action fell." The continued case against Hollis was also recorded, but appears to have been discontinued by agreement of the parties, "the defendant by his attorney remitting his costs." Penn had been nonsuited in an action brought by him against White at the October term, 1698.

The record of another continued case brought forward at the November term conclusively shows that the Court were of opinion (upon what theory it is difficult to conjecture) that either the ordinance of the late colony, or the statutes of the province, governed the descent of lands of an ancestor dying after the revocation of the charter and while the government of the colony was in the hands of a representative of the crown appointed by virtue of the royal prerogative upon the assumption that the right had reverted to the king. This case was the action of Penn *versus* Thomas Gould, in which Edward Hill appeared, and, taking

^{*} Suffolk Court Files.

[†] Chapter 9. Disallowed five months before, November 24, 1698.

[‡] Chapter 3.

§ Diary, vol. I., p. 500.

upon himself the defence, pleaded in bar, "for that he the said Penn sues as heir at law, and there being two other persons living who have right to the said estate and with said Penn;" whereupon it was considered by the Court "that the plaintiff can take nothing by this writ and that the defendant go without day, and recover costs," etc. This new line of defence against the plaintiff's claim as sole heir, under the common law, seems to have been followed in all subsequent cases, and nothing has been found of record to show that it was objected to as untenable.

At the May term, 1700, the Superior Court seems to have abandoned the intention to have the cases of Bowditch and the Frenches tried again at that bar. The reason for this determination, probably, is to be found in the provisions of the new act* under which the Court was reestablished, which gave it only appellate jurisdiction. Accordingly, judgment was awarded to the original defendants, respectively, with costs against Penn, taxed at £13 11s., in the case of the Frenches, and at a sum not shown in the judgment for Bowditch.

At the next term (November) of the Superior Court held at Boston, Penn appears to have entered another writ against the Frenches, which was abated on the defendant's motion. A writ of review, also, dated October 11, 1700, entered at this term by Penn, against Bowditch, was not prosecuted by the plaintiff, and accordingly a nonsuit was entered against him.

More than two years elapsed before Penn again applied to the courts to be put into possession of his inheritance. Before August 27, 1700, Pottwine died,† apparently without divulging his guilty secret in such manner as that his testimony could be used to right the wrong done to Penn's heir.

About one year after Pottwine's death, Stoughton, who, as judge of probate, had refused to revoke the probate of the forged will, and who had held the first seat on the bench of the Superior Court as well as in the Council, died;‡ so, for the future, nothing was to be feared from his influence over his associates by either of the parties interested in sustaining or defeating the will.

The first of the new suits brought by Penn was against Hollis, and was marked by two noticeable departures from the form of declaring previously followed. He no longer counted upon his sole right or seisin, but claimed only an undivided third of the land sued for, and he declared on "*trespass and ejectment*,"§ instead of "trespass on the case," as formerly.

The new statutes for establishing courts, etc., required that actions should be originally brought in the Court of Common Pleas, and so the writ which was dated December 17, 1702, was entered at the January term of that Court, in Suffolk. The declaration was substantially the same as in the former cases, save that it contained an allegation that possession of the premises claimed had been demanded and refused. Newton appeared for the defendant and pleaded the general issue. The jury found for the defendant and the plaintiff appealed to the Superior Court.

In this case, for the first time, the judges ruled that the probate of the will was binding upon the Court and that evidence to invalidate the will could not be admitted in this collateral proceeding. This appears from the plaintiff's reasons of appeal which were as follows:—

"Suffolk ss To the Hon^{ble} the Superiour Court of Judicature to be holden at Boston for the County of Suffolk on the first Tuesday in May: *Anno Dom*: 1703.

The Reasons of Appeal of Anthony Penn, of Birmingham in the County of Warwick in England Cordwainer nephew to W^m Penn late of Braintree deced Intestate Applt. from the Judgment of the Inferiour Court of Common pleas lately held at Boston in s^d County of Suffolk the first Tuesday in January last past: Where the s^d Anthony Penn was Pl^t and J^{no} Hollis of Braintree afores^d was the Deft.

The Action or plea was a plea of Trespass and Ejectm^t for the Deft Illegally entring into and refusing to deliver to the Pl^t a Third part, The whole in three Equal parts to be divided) of a certain P^{cell} of Land about thirty Acres lying in Braintree Township and bounded as the Attachment Sets forth, of which s^d Land s^d W^m Penn dyed Intestate Seized in fee from whom the Pl^t derives as by s^d Attachm^t is fully & at large declared. The Deft pleaded not Guilty in manner & forme as the Writ sets forth—The Judgm^t was for the Deft Costs of Suit which Judgment the Applt saith is Erroneous & wrong and ought to be Reversed.

1 Because Judgm^t ought to have been rendered for the now Applt.

2 Because the Deft Insisted upon a Will said to be made by the sd W^m Penn deced, whereby the Land in Controversy was bequeathed away from the Pl^t, whereas in truth there was no such will *bond fide* made, And the Applt offered and did not doubt to set aside the same, but the Judges of the Inferiour Court would not admitt the Applt to Attempt, being of opinion, That that Wills validity could not be contested before them, which the Applt conceives is a very great Mistake.

3 Because the Applt is of opinion he hath undoubted Evidences to prove that the Will the Deft has set up is a forged Will & so could never be the Will and Testam^t of W^m Penn deced whose tis falsely pretended to be.

4 If the Applt should admitt that Will to be made by the Testator W^m Penn as is pretended, yet the same is not proved according to Law, for that Mary Marsh one of the three

* Province Laws, 1699-1700, chapter 3, § 1.

† The will of "John Pottwine . . . Phisitlan" (called, "barbur chyrurglon" in the records of Suffolk County Court, March 29, 1690), dated July 7, 1700, was admitted to probate August 27, 1700. To his widow, whom he named his executrix (directing that his father-in-law, Edward Hill, "needst and aid her"), he left all his estate, real and personal, except his silver-headed cane, one gold ring, and his "chirurgeon's chest," which he bequeathed to his son John. In this will he plausibly expressed the belief that he should "be pardoned for his sins and be saved by the precious death and merits of" his "blessed Savior and Redeemer," etc. The son's name appears occasionally in the town records as late as 1734, in connection with various offices to which he was chosen, the duties of which he could be excused from performing by paying a fine—such as scavenger, constable, and clerk of the market.

‡ July 7, 1701.

§ Professor Stearns has cited an instance of the use of this form of declaration, in Middlesex, as early as December 11, 1694. See his Summary of the Law and Practice of Real Actions, p. 502.

pretended Witnesses to s^d Will utterly denied that her mark was to it and the Statute of the 29th King Charles the Second makes Strongly against that will and the Local Law of this Province which the Deft pleaded hath no manner of Relation to the Cause.

All which Matters and things being duly Considered by the Hon^{ble} Court and Jury, and what further will be offered The App^l doubts not the Reversal of the former Judgm^t & that the Gentlemen of the Jury will find the Land Sued for to be App^ls undoubted right

JNO VALENTINE Attorney for the App^l." — *Suff-*

folk Court Files.

The defendant's answer to these reasons was prepared by Newton who therein appears to have first raised an important point based upon that view of the law which has been since generally accepted as sound, and to which the practice of the courts has conformed down to the present day. The answer was as follows:—

"Suffolk ss

To the hon^{ble} the Justices of her Maj^{ties} Superior Court of Judicature held at Boston for the County of Suffolk on the first Tuesday of May 1703.

The answer of John Hollis of Braintree in the County of Suffolk Defend^t to the Reasons of appeale of Anthony Penn of Birmingham in the County of Warwick in England Cordwainer nephew to William Penn late of Braintree dec^d intestate, appell^t from the Judgm^t of the Inferiour Court of Common pleas held at Boston for the sd County of Suffolk on the first Tuesday of January 1702.

The action and plea was such as the appell^t in his reasons of appeale hath set forth, and Judgm^t was thereupon given for the Defend^t for Costs of suit, w^{ch} Judgm^t the Defend^t saith is in no wise Erronious, but right and ought not to be reversed.

1 That the Judgm^t ought not to have been rendred for the appell^t

2 That it is true, that the Defend^t (amongst other things) and to bring downe the title of the Land in Question to him) did produce an authentic Copy of the sd William Penns Will under whom the appell^t p^ttends to Claime, w^{ch} will the appell^t would p^ttend to set aside, w^{ch} the Defend^t humbly conceives, was not in the power of the Inferiour Court appealed from, nor (with submission) in the power of this hon^{ble} Court, for that by a Law of this province, if any will is contested it is thereby referred to the Govern^r and Council of this Province, to decide the same and the abovesd Will has been attempted by the appell^ts attorney to be set aside, but he could not obtaine the same, as will appear to your honors in this Cause

3 That the appell^t cannot prove the will of the sd W^m Penn to be forged (tho: as before) he has often strenuously endeavoured the same and so the said will continues in force and full Effect.

4 That the aforesd will is proued in due form of Law, and tho: Mary Marsh one of the witnesses to the sd will, (being an illiterate person) and under surprise) did not know her mark, yet she offered her oath she saw the sd W^m Penn signe seal & publish the same & that she subscribed her mark, thereto. yet it is proved by two other legall witnesses w^{ch} is as much as our Laws then required and being proved in form of Law, the same cannot otherwise be contested then before the Gov^r and Council as aforesd: all w^{ch} with what further may be offered to this hon^{ble} Court & Gent^{ys} of the Jury ag^t the appell^ts insufficient Title ag^t a lawful purchase the Defend^t hopes they will see good grounds to confirme the former Judgm^t with additionall Costs

THOS: NEWTON attorney for the Defend^t." — *Ibid.*

From this answer it appears that Newton very properly had argued that the English Statute of Frauds was not in operation here * at the date of the execution of the will, and hence that two witnesses to its publication were sufficient, whether under the common law, the civil law, or the colony ordinance; and that by the operation of the province charter, and the act † made to render more effectual the first provincial act ‡ respecting the probate of wills, the probate in this case could only be revoked by the county probate court, or by the Governor and Council sitting as the supreme court of probate.

The term of the Superior Court to which this appeal was taken was begun at Boston on Tuesday, May 4, 1703. The case proceeded to trial, and judgment was awarded to the defendant. The conclusion of the record in this case is as follows:—

"Both Parties Appeared the Writ Inferiour Courts Judgment Reasons of Appeal & all things touching the same being fully heard the whole was Committed to the Jury who were Sworne to try the same & Returned their Verdict therein upon Oath, That is to say They find for the Defend^t Confirmation of the former Judgment & Costs of Courts. It's therefore Considered by the Court That the s^d John Hollis shall recover of the s^d Anthony Penn Costs of Courts Taxed at . . ." — *Records of the Superior Court of Judicature, 1700-1714, p. 95.*

The plaintiff, not satisfied with this verdict, resorted to the only remedy which yet remained to him; that is, an action of review, which under a recent law § he, as the party aggrieved, must bring in the Superior Court within "three years from the time of rendring the judgment to be reviewed."

Accordingly a writ of review, dated April 3, 1704, was entered at the term begun on Tuesday the second of May. Joseph Hearne had succeeded Newton as counsel for the defendant. The trial resulted in a verdict for the plaintiff. The following is the conclusion of the record of this case:—

" . . the Case after a full hearing was Committed to the Jury, who were Sworne to try the Same & Returned their Verdict therein upon Oath That is to say they find for the Plt the Land Sued for & Cost of Courts. It's therefore Considered by the Court That the s^d

* Determined by the Privy Council before 1722: so stated by the Master of the Rolls in 2 Peere Williams, 75.

† Province Laws, 1692-3, chapter 46, § 1.

‡ *Ibid.*, chapter 14, § 2.

§ *Ibid.*, 1701-2, chapter 6.

Anthony Penn shall recover against the s^d John Hollis the Land sued and Cost of Courts Taxed at nineteene pounds Ten shillings & Eleven pence." — *Ibid.*, p. 121.

It is impossible to account for this change of attitude on the part of the jury except by the surmise that the Court differed from their brethren of the Common Pleas in their view of the law, and admitted evidence to impeach the will. If such evidence were at all admissible the sufficiency of the new testimony which the plaintiff produced at this stage can hardly be questioned.

On the tenth of February previous to the trial, Thomas Sea, on his deathbed, sent for the plaintiff's attorney, and confessed to him, in the presence of four witnesses, that William Penn was dead when the instrument purporting to be his will was signed, which was the night after he died; and though repeatedly questioned as to the fact, and most solemnly and impressively adjured to tell the truth, he remained steadfast in this declaration. About a month later the testimony of two of the witnesses to this confession was reduced to writing and the depositions were severally sworn to before a magistrate — Edward Hill being present in each instance. By the most rigid rules respecting the exclusion of testimony for want of notice to the adverse party, or as being but hearsay, or as not being seasonably or regularly authenticated, this dying declaration duly testified to before a proper magistrate and in the presence of the executor and devisee was wholly unobjectionable.

These depositions were sworn to again in court, together with others of like import — save that in one of the latter there was some evidence that at the approach of death, and just before he ceased speaking intelligibly, Sea faltered in his declaration. But this was after Edward Hill and some of his friends, including Mary Marsh, had had an interview with Sea and after he had been left alone for a short time with the latter.

On the twenty-seventh of April, a new witness, — Ann Donbleday, the person in whose house Sea remained throughout his last sickness, — made a deposition, which she afterwards swore to in court, in which she not only corroborated the testimony of other deponents as to Sea's dying declaration that the will was made the night after Penn died, but added the important statement that Sea, on his deathbed, when asked by Joseph Hill, the plaintiff's attorney, if he remembered his statement to the questioner, some time before, that when he (Sea) went with Mary Marsh to lay out Mr. Penn, the dead man lay in his blood, and had a wound in his back deep and wide enough to admit the length and turning about of his two fingers, with other marks of violent and painful death, Sea turned his head to the wall and evasively replied, "what I did I was hired to do."

The injustice which would be done to the plaintiff by allowing the will to stand against this accumulation of subversive testimony was so obvious that the court and jury appear to have been agreed that he should prevail in his cause.

On the twenty-second of May a writ of *habere facias possessionem* was signed by the clerk of the court, upon which, besides a receipt signed by Joseph Hill for the "full contents of the within execution," the following return was made by the sheriff: —

"Suffolk ss

May ye 18th 1704

By Vertue of this Execution — I have Levied it upon the Land withinmentioned and have delivered possession thereof to the plt and have alsoe satisfi'd him for his Costs & damages as D Recet
GILES DYER Sheriff." — *Suffolk Court Files.*

Penn's attorneys, relying upon the conclusiveness of the evidence which after so long developing had culminated in the recent trial, now determined to apply for some legislative provision whereby the heir might be granted an opportunity, in a rehearing of the causes he had lost, to avail himself of the new testimony by which he had sustained his case against Hollis.

On the other hand Clement Cock, whose defeat in his litigation with the heir has been heretofore described, had applied to the General Court for the passage of an act enabling him to have a new trial. Cock's petition was as follows: —

"Province of the }
Massachusetts Bay } ss

To his Excy: Joseph Dudley Esq^r Cap^t Gen^l & Govern^r in Chief in and over the Province of the Massachusetts Bay and Vice Admiral of the same and to the Hon^{ble} Council of the s^d Province and hon^{ble} House of Representatives Convenied in Gen^l Assembly.

The Humble Petition of Clement Cock of Brantree within the s^d Province Taylor Sheweth

That Whereas Yo^r Pet^r on or about ye 14th day of Feby^r in the Year of our Lord 1693 for a Valuable Consideration did Purchase of Edward Hill of Boston Cordwinder & Deborah his Wife a peice or Pcell of Meadow & Vpland Situate Lyeing and being in Brantry aforesd commonly call'd and knowne by the name of Penns Neck containing by Estimation fifteen Acres or thereabouts, which s^d peice or Pcell of Meadow & Vpland was heretofore the Estate of William Pennie Late of Brantree aforesd dec^d Whereof he dyed Seized in fee. And yo^r Pet^r quietly & Peaceably enjoyed the s^d Land from the time of the s^d Purchase untill one Anthony Penn of Burningham in the County of Warwick in the Kingdom of England under the pretence of being Nephew & heir of the s^d William Penn, at the Inferiour Court of Common Please held at Boston for the County of Suffolk on the first Tuesday in April 1697 commenced an Action of Tresspass upon the Case ag^t yo^r Pet^r for the s^d Pcell of Meadow & upland, Where the s^d Anthony Penn after Issue Joyned and a full hearing was cast to pay Yo^r Pet^r Costs, from wch Judgem^t the s^d Anthony Penn Appealed to the Superiour Court of Judicature to be holden at Boston for the s^d County on the last Tuesday of the s^d Month of April where the Judgem^t of the s^d Inferiour Court was Confirmed, But the s^d Anthony Penn not being Satisfied with the aforesd Judgem^t at the Superiour Court of Judicature held at Boston for the s^d County (by Adjournem^t from the last Tuesday of April) the 14th day of June 1698 brought an Action of Review ag^t your Pet^r where your Pet^r was cast and the s^d Anthony Penn thereby got the Possession of the s^d Parcell of Meadow and upland, and yo^r Pet^r has been wrongly put out of the Possession thereof ever since as he hopes to make appear to yo^r Excy & hon^{rs} for that the s^d Anthony Penn the demand^t Entitled himselfe to the s^d Land as onely Son of Anthony

Penn, the Bro^r of the s^d William Penn, And by his own pretended Evidence shews forth that the s^d Deborah Hill & others were Related in Equall degree with him to the s^d William Penn, and by the Law of this Province have an Equall Share with him in the s^d Land, had his title been good yet he had Judgem^t for the whole and still remains in the Possession thereof, Secondly for that the s^d Anthony Penn never Produced any Legall Evidence of his Relation to the s^d W^m Penn as the Law requires and Will appear Evident for y^t y^e s^d Anthony Penn has since brought Severall Ejectm^{ts} ag^t divers other Persons, who hold some other of the Lands of the s^d W^m Penns under the same title. and has allwayes or at least finally been cast upon the insufficiency of his title, Thirdly for y^t the s^d Anthony Penn finding his title not good for the whole has sued for part as coheir with the s^d Deborah Hill & Others and Likewise been Cast upon the invalidity of his title, Now forasmuch as the s^d Anthony Penn has no Legall Title to the afores^d Land, And also for y^t the s^d W^m Penn made his last Will & Testam^t: in Writing and thereby devised the same with others to y^e s^d Edward Hill, which s^d will was duly Proved and approved of According to Law and never yett made, null or Void Whereby the s^d Edward Hill had good right to sell And for as much as y^{or} Petr^r has had two Judgem^{ts} ag^t the s^d Anthony Penn, Who only recovered upon the, review thro: the Juries misunderstanding of the Law, which was the desisive Tryall at that time and your Petition^r altogether without remedy unless relived by this Hon^{ble} Court

Y^{or} Petr^r therefore most Humbly Pray's That y^{or} Excell^y & Honor^y will be pleased to take the Premises into Your Consideration, and inable him by an Act of this Hon^{ble} Court to have a New Tryall of the said Cause where y^{or} Petr^r Doubts not upon a fair hereing thereof to recover back the s^d Land, the Looseing Whereof will be to the relinie of him & his family, And y^{or} Petr^r as in duty bound will Ever Pray &c.

CLAMMANT COCK." — *Mass.*

Archives, vol. 40, p. 772.

This petition appears to have been lodged with the Secretary of the province July 15, 1703, but besides a memorandum of its being read in Council on the next day, no record of action upon it has been discovered. He, however, filed a similar petition, later.

The petition of Joseph Hill, one of Penn's attorneys, was as follows:—

"To His Excellency The Governour and Honourable Council, and Representatives In General Court Assembled, the Petition of Joseph Hill Attorney To Anthoney Pen.

Most Humbly Sheweth

That your Petitioner, as attorney to s^d Pen, of Bromingham in the Kingdome of England, did sue Thomas French, and Samuel French and John Bowdidge, of Brantry in the province of the Massachusetts Bay in New England, for a House-Lot, npland, and meadow, which s^d House Lot, and npland and meadow, doth Belong to s^d Anthony Pen, as Being Heir at Law, To William Pen, Late of Brantry Deceas^d; which s^d Actions were Brought against s^d Thomas French, and Samuel French and John Bowdidge, at the Superior Court of Judicature Holden in Boston for the County of Suffolk, on the Last Tuesday in October (1698) at which Court, I Recovered the Cause against s^d Frenches, thō Cast By s^d Bowdidge in his Action Distinct from s^d Frenches, which s^d Frenches Attorney in Behalfe of his Clients did Review s^d action at the Superior Court Holden in Boston, on the Last Tuesday in April (1699) at which s^d Court, the Case was Tried, and the Jury Brought in their Verdict for the Plaintiffs; the Court not being satisfied with their Verdict, sent the Jury out again to Reconsider it, who accordingly went out, But Bringing their Verdict as at first; the Court Receives their Verdict; but withall, order the Clerk to make a minute, V^z that the Justices tell the Jury that their Verdict did not agree, with the Law, nor the Evidence in the Case, and therefore desire them to Reconsider it a third time but the Court then falling (by Disallowance from England) it was not then done, but the Case was Brought at the Superior Court Holden in Boston, on the first Tuesday in November (1699) but m^r Danforth (who was the former Judge) being Dead, and m^r Stoughton being Judge in his Room, who not Hearing the Case Tried before, s^d Frenches attorney, then told the Judge that, that Courts Record was false and that the Court ordered no such Record to be made, the Justices on the Bench, told the Judge that, that Record was True & that the Court ordered s^d Record to be made. s^d attorney, then told the Judges his Clients were gone out of Towne, and therefore prayed that the Case might be Continued till the next Court to be Holden in Boston on the first Tuesday in may (1700) which was accordingly Granted and at which Court the Case was Called in order to be Heard according to the former Record, but s^d attorney then told the Judge of the Court that the Record had been Already performed and y^t the Jury Had the Case to Reconsider, after that minute was made By Reason of which false pleading, Judgement was made up and Excecution Came out for the Land sued for, and Costs of Courts, which is to the Damage of the aboves^d Anthony Pen, and Joseph Hill his s^d attorney (your Petitioner) the sum of four hundred pounds money. Your petitioner further sheweth that some time since one of the witnesses to the will said to be the Last will and Testament of s^d William Pen, and By which s^d Frenches and Bowdidge and others Hold their Lands and Tenements formerly s^d William Pen's, s^d witness did upon his death bed Confess that s^d will was made, after s^d W^m Pen was Dead as your Petitioner Hath, by several witnesses, in Court produced, of Late sufficiently proved, at which s^d Court, your petitioner Recovered part of s^d Pens Estate

your Petitioner therefore, most Humbly Craves that this Honorable Court will please to take it into your serious Consideration, and make an Act for the Revival of s^d Actions, that so he may have Redress, which at present (being Concluded in the Law) he is Destitute of: and your Petitioner as in Duty Bound Shall Ever Pray

JOSEPH HILL." — *Ibid.*,

p. 797.

The above petition was read in the House of Representatives June 14, 1704, and again on the fifteenth. On the twenty-seventh it appears to have been sent to the Council with the order thereon which constitutes this chapter. On the next day it was concurred in and consented to by the Governor.

For further proceedings relating to the alleged will, and the titles acquired from Edward Hill, see chapter 62, *post*, and note.

Chap. 28. This chapter is from council records, vol. VIII., p. 65. It is preserved in archives, vol. 101, p. 264.

This order originated in the House on the day of its passage.

Until the passage of the act of 1703-4, chapter 7, the following abortive bills were the only attempts by special legislation to relieve soldiers from the difficulties usually encountered in getting their wages — the issuing of debentures being left to the discretion of the commissioners for war or to the commissioners for debentures: —

“WHEREAS it is found by daily Experience y^e souldiers & others are put to great expence for the procureing their dues from y^e P^{ro}vince whereby Many are discouraged in serving their Majesties agst the Comon enemy, & others In advaunceing upon y^e Countreys Credit

Be it therefore enacted by y^e Govern^r Councill & Representatives assembled in Generall Assembly & by y^e authority of y^e same it is enacted.

That y^e Committees of Militia in y^e severall Townes, shall hear determine, & settle the whole acct^s of y^e severall Townes Respecting all disbursements of Armes Ammunition provisions & debenters for souldiers wages said souldiers (bringing from y^e Cap^t they served under the time they served & the Commissaries acct^s) which shall be charged upon y^e Constables of y^e severall Townes. who haveing discharged them, being Carried by the said Constables to the Treasurer y^e s^d Constables shall be discharged of soe much of their Townes proportion: but s^d Constables haneing before paid their Assessm^ts said Bills Debenters, & payments shall then be payd by the publiek Treasury

October 12 92 The above^d bill was Read a first 2^d & third tyme in y^e house of Representatives & voted & past Ordered to be sent up to y^e Govern^r & Councill for Consent

WILLIAM BOND Speaker.” — *Mass.*

Archives, vol. 70, p. 180.

“Be it Enacted by the Govern^r Council & Representative That from hence forth the Commission^s of warr be the Chiefe Commission officers of Each Company in the severall Townes who are Req^d & Impowred to Grant Debentures upon the Treasurer of y^e Province for all wages Due to souldiers from the time they were Imprest by them untill the time they are dismist by y^e officers they served unde^r the s^d sould^r bringing a Note from such Cap^t how long he served & from y^e Commissary where they served of what they have taken up w^{ch} shall be Deducted by the Treasurer out of his wages before he makes paym^t to such souldier.

Sept 8th 1694 past in the affirmative by the house of Representatives & sent up to his Excy & Council for consent.

NEHEMIAH JEWET speaker.” — *Ibid.*,

p. 227.

Another unsuccessful attempt at legislation upon this subject appears to have sprung from a suggestion by Dudley, November 19, 1703, who, being unable to be present at the Board, was waited upon by the Secretary, by whom he sent a message to the Council expressing his wish to “have the Court to bring forward the things lying before them, as to . . . directing the method for payment of the soldiers.” He subsequently made the same intimation to a committee of the Council which “attended him” with a message praying “his direction for the Court’s procedure.” On the same day it appears a bill “was drawn up, read and debated” in Council. For this, apparently, there was substituted the following bill, which originated in the House, where, on the twenty-fifth, it was read a first and second time, and on the twenty-sixth read a third time, passed to be engrossed, and sent to the Council for concurrence, and there read the same day: —

“An Act Directing how Debentures shall be Granted for souldiers, and Seamen’s Pay &c.

Whereas by reason of the frequent Reforms, and Removes, made of the Forces Impleiod in Her Majesty’s Service, and the Taking up of Cloths of Severall Commissaries, the method at present Directed for Granting Debentures, is found not so practicable.

Be It therefore Declared and Enacted by His Excellency the Governour, Councill & Representatives in Generall Court Assembled, and by the Authority of the same, That every Colonel, or chief Officer of any Regiment, from whence any souldiers are or shall be Detached, shall forthwith Transmitt to the Auditors of Accounts relating to the War a List of their names, with the Places of their Dwelling, and the Daies on which they were respectively Detached,

And every Captain, and Commanding Officer under Pay, shall at the end of each three months from time to time Transmitt to the s^d Auditors a fair muster-Roll signed by himself, and his Clerk, of all his Under Officers, and Souldiers, with the Day of their Enlistment, with him, the Time of their Service, and what each one hath Taken, up, the Places whereto they respectively belong, and how many Weeks furnish^t with Province Arms, set forth in distinct Columns, and also Deliver to every under-Officer, and Souldier, a Certificate, of the Time of their Service, and what They have Taken up with the Commissary, at the end of every three months & when they are Dismiss’d from their Command

And such Three Persons, as shall be Nominated and Appointed by this Court, and Commissioned by the Governour, are hereby Impowred to be Auditors of all Accounts relating to the War, for souldiers, and seamen’s Wages, Hire of ships, and Vessells Taken up for War And for other Incidents, who shall Adjust State and settle the same according to the Pay and Allowances, Stated, or to be stated by this Court setting forth as well the whole sum accruing to each Person respectively for his service, for Vessells Hire, Disbursements, Billets, or otherwise, as what remain’s due after subduction, of what has been received, or taken up of the Commissary or otherwise. —

And a proper Generall Entry of all Accounts by them so Adjusted, shall be made in Books by them Kept for that end, as well of the whole grosse sum: as what remain’s due, after subduction as aforesaid!

○ And the said Auditors, or any Two of them shall signe Debentures, Directed to the Treasurer for Payment of what is due thereby to each particular Person, and the Treasurer, by virtue of his Excellency’s the Governour’s Warrant, by and with the advice and Consent of the Councill, to be made in Generall for that Purpose, is to Accept, and Pay the same.

Any Law, Usage, or Custom to the Contrary notwithstanding.

And Be it further Enacted, That where souldiers shall be Posted in small Parties, in the Frontier Towns and Places, not belonging to any Captain of a Company under Pay, the Colonel or chief Officer of the Regiment, within which such souldiers are Posted, shall Certify their Names, and the Time of their service, to the Auditors afores^d in order to the *X*making out of *Debentures for their service*.

dele { Provided nevertheless, and be it further Enacted (any thing in this Act to the contrary notwithstanding) That the Commissary Generall, is hereby Appointed, and Impowered, to Adjust state and settle all Accounts relating to vessels Taken up and Imploied as Transports (as well as the other Accounts proper to his Office) what shall be due For their Hire, for Wages to Commanders, other Officers, and seamen that served in them, and all other necessary Charges in their fitting or otherwise. and to make Payment to the respective Persons what shall be due to them, according to the Rules and Directions that are or shall be Given for that end by this Court, whose Accounts shall be Laid before the said Auditors to be by them Examined and Audited, And what shall be found due to him from time to time, for the Ballance of his Accounts shall by virtue of his Excellency the Governour's Warrant, by and with the Advice, and Consent of the Council be Paid him out of the publick Treasury.

Provided also that this Act shall Continue in force, untill the last day of November in the Year 1704, and no longer." — *Ibid.*, vol. 101, p. 249.

On the twenty-ninth, after "some amendments proposed," this bill was returned to the House. By the first of December it had got back to the Council, for on that day a message was sent to the House proposing amendments, as shown below. On the second the Council ordered it "to lie for consideration till the next session of this Court," but no further action thereon has been discovered.

The message referred to above was as follows: —

"Dec. 1, 1703. John Walley & Penn Townsend Esq^{rs} were sent on a Message to the House of Represent^{es} to propose the Abatem^t of some Clauses in the Bill directing how Debentures shall be granted for Soldiers & Seamen's Pay, Viz: Those of the Auditors granting of Debentures, & all Accompts after auditing thereof to be laid before the Governour & Council to be pass'd to the Treasury."* — *Council Records*, vol. VIII., p. 19.

The amendments proposed by the Council appear to be the following clauses, written on a separate sheet bearing reference marks corresponding to others on the bill: —

"† And y^e same from time to time to lay before his Excellency y^e Gov^r & the Council for their allowance & orders on the Treasur^y for payment

The paragraph marked O to be left out

‡ Adjusting such Acc^{ts} to lay before y^e Gov^r & Council for allowance & orders on the Treasur^y for paym^t the same made payable to s^d Coll: or cheife officer for & in behalf of such souldier." — *Mass. Archives*, vol. 101, p. 252.

Chap. 29. This chapter is from council records, vol. VIII., p. 66. It is preserved in archives, vol. 71. p. 61.

The order which constitutes this chapter originated in the House on the day of its passage.

Chap. 30. This chapter is from council records, vol. VIII., p. 66. It has not been found in the archives.

James Russell was relected † commissioner of impost June 28, 1704.

The account referred to in the preamble to this chapter has not been discovered.

The order in Council ‡ for the payment of this allowance was passed July 7, 1704, and the province treasurer's account § contains a charge of payment of £135 3s. 3d. in full for his services as commissioner of impost to June 23, 1704, and "in discharge of his acco^t of Paym^{ts} & Disburstm^{ts} allowed by y^e General Assembly." This is the sum of the allowances made to him in this and the following chapter.

Chap. 31. This chapter is from council records, vol. VIII., p. 66, and archives, vol. 119, p. 218.

The following is the petition mentioned in the preamble to this chapter: —

"To his Excell^{ty} The Governour, The honored Councill, and Gentlemⁿ The Representatines of her Maies^{ty} Prouince of the Massachusetts in New Engld Sitting at Boston y^e 31th May 1704: @

Yon may pleas to take notice that At the Sessions held in Nonembr last I p^rsented an Abstract of the Prouinces Generall Accompts vnder my Manngement Amounting to 5000^{li} wth A petition adioined setting forth the Extraordinary labor & trouble y^t vnanoidably Attended Adjusting those Accompts wth many p^{rs}ons by reason of the Draw backs & Additions & Substractions on Altering y^e Laws, The draw backs amounting to aboue 2700^{li} w^{ch} necessitated me to employ my Sonn; & to Attend the London fleet y^t came in neer together. and to draw out Accompts & look After debts &c. before dew; Requesting my Books might be p^{rs}ed by Such Judicious p^{rs}ons as the hon^d Court might Appoint; That y^e Service & Labor Extraordinary for adiusting Accompts; & getting in Debts belonging to the Aforesd Accompts might be concidered & compared wth former Commissioners work; There being an Addition of Excise on Brewers & distillers, w^{ch} desired might haue sutable Allowance for; Either by poundage or otherwise proportionable to what others haue had formerly that neuer had the like Trouble nor is it likely any will haue again the Law being altered in the midst of the Year.

* This is the proviso in the act opposite the brace, and marked *dele* in the margin.

† See *Resolves*, 1703-4, chapter 81, and note.

‡ Executive Records of the Council, vol. 4, p. 39.

§ *Mass. Archives*, vol. 122, p. 233.

The Issue was that without my petitions being read to; or my said Accoumpt^t laid before his Excellency & the Council, or being compared wth my p^rdecessors work & wages, (by reason of the more weighty Affaires of y^e Province then depending) I was Allowed but Seaenty pounds, w^{ch} was the Same he had for his last year tho he did not Accompt for 1500^l and I Accompted for 5000^l w^{ch} necessitated me to imploy my Sonn Daniell To draw out Accompts & look After debts and Assist about y^e Impost y^e Londⁿ fleet coming in @ 7 Shippes nere together, which hath & will require y^e Expence of Twice the Time & labor the former year did: There being also an Addition of Excise on Beer & Spirrits w^{ch} much Augmented my labor (tho it hitle redounded to y^e Advantage of the Provinces Treasury) w^{ch} I doubt not the Justice of this hon^d Court will Consider; And allow me what may be Equitable, w^{ch} it is my opinion may be most sutably donn by A moderate poundage w^{ch} has bin, formerly practiced for many years and in *Anno*: 1692 & 93 The Commissioners for Impost were Allowed one sixth part & in 1694. 95 & 96 There was but one, & he was Allowed 1300^l p^r Annum and the Three last years, he has bin Allowed but Seaenty pounds p^r Annum There being then no Excise of Bear & Spirrits To look After; it may Also be Considered he kept Another Office at y^e Same Time & place which had considerable fees belonging to it; And the Receiver for Essex hath been Allowed four Shillings on the pound for what he paid To y^e Treasury for Generall Years; It may be Also considered y^t notwithstanding I have gotten in what I cold by Civill Treatment yet There is now one Thousand pounds Standing out in debts, mostly good, due to the province; w^{ch} I proposed Something to have p^rvented many of them At the Sessions of y^e Court held in March last; w^{ch} will fall in Coarce To be considered this present Sessions, the Law being nere Expiring; I am now Obliged (seing you have Judged me So faithfull as to betrust me with your vnkown Treasury) to giue you an Accompt of my Receipts, Payments To the Treasurer, & other disbursments which now Accompany this Address, w^{ch} I desire may be so farr Allowed, that I may be discharged from what I have paid & have ord^r for my disbursm^{ts} w^{ch} have bin According to law as Also my own Allowance for one Year & half; all which y^e Treasur^r sees not mete to concern himself with any farther then his acco^t which goes herewith Expresses,

I have one Thing farther to request your fauour in, w^{ch} is that I may be released from my obligation for the payment of forty shillings for a licence to retale Strong drinke for the year past w^{ch} I cold not improve by reason I was necessitated to take of my Sonn from my busines at Charlestown to Assist me in y^e Impost Office So that I sold not above one Barrell of Spirrits, (& no Rum) by Retale, this Year, and very little more wine, and also there was Another person licenced that set vp nere my house so y^e Province will not be p^riudiced, w^{ch} is the needfull at p^rsent from him who wishes yo^r Prosperity & desires to remain
Yor humble Serv^t

JA: RUSSELL." — *Mass.*

Archives, vol. 119, p. 217.

This petition appears to have been read first, in the House, on the seventh of June. It was read again on the twenty-eighth, when the resolve which constitutes this chapter was passed and sent to the Council for concurrence. On the next day it was concurred in, and consented to by the Governor.

The order in Council * for the payment of this allowance was passed July 7, 1704.

See, also, note to chapter 30, *ante*.

Chap. 32. This chapter is from archives, vol. 71, p. 62. It is recorded in council records, vol. VIII., p. 66.

By resolves, 1703-4, chapter 49, Povey had received a grant of one hundred pounds. That resolve was passed on the thirty-first of July. The Governor's instructions respecting a permanent salary for the Lieutenant-Governor, and the representation of the Lords of Trade for a letter from the queen reinforcing this article of his instructions, and his communication of the same to the Legislature and their action thereon down to the second session, have been given in the notes to resolves, 1703-4, chapters 46 and 114.

In the third session, while the subject of settling a fixed salary upon the Governor was being considered, the Council proposed, as a rider to a resolve which had passed the House for a new issue of bills of credit, that three of the committee that had signed the last issue of bills be retained to sign the new bills, "as also to ascertain the pay of his honor the Lieutenant-Governor as commander of the Castle." This proposal failed, however, and the resolve passed in the form in which it appears on page 38, *ante*.

The House having expressed their desire that the consideration of the salary of the Lieutenant-Governor be deferred, no other action thereon was had in the fourth session than that shown in the note to resolve, 1703-4, chapter 114; but during the short fifth session of four days, notwithstanding, as has been shown, the Governor, in his opening speech, refrained from mentioning the unwelcome subject of stated salaries, the following entry appears of record:—

"April 21, 1704 John Higginson & Edward Bromfield Esq^{rs} were sent on a Message to the Representatives, To move the House to the Consideration of an Allowance to his Honour the Lieut: Govern^r." — *Council Records, vol. VIII., p. 43.*

During the first session of the next Assembly† the Governor "Recommended to the House the Consideration of an Allowance to the Lieut. Governour for his Service." On the twenty-seventh of June the following minute of proceedings appears in the record:—

"A Message was sent by Joseph Lynde Samuel Hayman & Isaac Winslow Esq^{rs} to move the House to the Consideration of an Allowance to his Honour the Lieut. Gov^r to the Commissary General & to the Judges." — *Ibid., p. 64.*

This was followed, two days later, by another message to the House, conveyed by Penn Townsend, "to remind" the representatives of these allowances, and, apparently in re-

* Executive Records of the Council, vol. 4, p. 39.

† June 23, 1704. Council Records, vol. VIII., p. 61.

sponse to this message, the resolve which constitutes this chapter was immediately passed in the House. On the thirtieth it was concurred in, and consented to by the Governor.

The order in Council * for the payment of this allowance being the last to Povey granted by resolve, was passed July 7, 1704, and the province treasurer's account † shows that it was duly paid. It was for his services not as lieutenant-governor but solely as commander of the Castle. Although, as is shown on the next page, he left for England in February, 1705-6, he is mentioned as captain until the thirtieth of April following. ‡ Zechariah Tut-hill, his successor, continued in command as lieutenant until Colonel Adam Winthrop succeeded as captain, May 1, 1708. §

After a warrant upon the province treasurer for the payment of the allowance granted by this chapter had been ordered, the Council, on the last day of the second session, sent the following message to the House:—

"Aug. 19, 1704. A Message was sent to the Representatives to make to the Hon^{ble} Thomas Povey Esqr Lient. Govern^r & Commander of her Majesties Castle, what is wanting above the Hundred Pounds allowed towards his Support in the publick Service in the Year 1703, The Establishment to the Commander of the Castle being One Hundred Pounds per Annum."—*Ibid.*, p. 72.

To this the House made the following response, which was read in Council on the same day:—

"In the House of Representatives Aug^t 19 1704

In answer to the Motion of the Board concerning the wages of the Hon^{ble} Thomas Povey Esqr Comand^r of the Castle.

Voted That It is the Meaning, and Intention of the vote pass'd the last day of July 1703, Granting one hundred Pounds to the s^d Thom^s Povey Esqr That It should be in full for his wages for his service as Comander of the Castle for the said year.

JAM^s CONVERSE Speaker."—*Mass.*

Archives, vol. 71, p. 66.

Notwithstanding this explicit declaration of the House, the Council during the intermission of the Assembly proceeded to affix to Povey's name on the pay-roll of the garrison the sum of fifty pounds as a half-year's salary. The following is the record:—

"Oct. 9, 1704. A Muster Roll of the Garrison at the Castle, containing an Account of their pay, from the sixth of January 1703, to the fifth of July past, was presented, with blanks for the sum against the names of the Captain & Lieuten^t. And upon perusal and consideration of the Act of Establishment for that Post, made in the year 1700, and the Grant made by the General Assembly in the year 1703 to his Hon^r the Present Lt Gov^r and Commander of the Castle. Advised that the sum of Fifty pounds, be incerted against his name for his Salary that halfe year according to the s^d Establish^t."—*Executive Records of the Council*, vol. 4, p. 88.

The third session began on the twenty-fifth of October. After waiting more than two weeks the representatives sent to the Council the following emphatic protest, which was there read on the tenth of November:—

"In the House of Representatives Nov^r 9: 1704

Whereas, at a Council held at Boston upon Monday the 9th of Octo^r 1704, It was advised that the sum of fifty Pounds should be Inserted in the Muster-Roll, against the name of the Hon^{ble} Thomas Povey Esqr Captⁿ of the Castle, for his salary from the 6th of January to the fifth of July past, as by the Journall of the Council more at large appear's pursuant whereunto the s^d sum of fifty Pounds hath been drawn out of the publick Treasury contrary to a vote of this House pass'd the 19th of August being the last day of the last session of this Court.

Resolved That the s^d Proceeding is arbitrary, and Illegal, a violation of our English, and Charter Priviledges, & Rights and if Precedential, of pernicious and fatell Consequence, to all her maj^{ties} subjects within this Province, And That This House Expects the s^d sum of fifty Pounds should be Refunded into the Treasury, by those that drew it out

In the name & by order of the House.

JAM^s CONVERSE Speaker."—*Mass.*

Archives, vol. 71, p. 93.

To this the Council immediately prepared the following reply, which they adopted unanimously, and sent to the House on the eleventh, by a committee consisting of Jonathan Corwin, Samuel Partridge, Ephraim Hunt and Samuel Appleton:—

"Nov^r 10th 1704. In Council. Voted,

Resolved That it appears, by an act of the Great and Generall Court or assembly begun and held at Boston the twenty-sixt of May 1703: &c, for the granting to her Majesty a duty upon wines &c, That the same is granted amongst other vses therein enumerated for the subsisting & paying of wages to soldiers in her majestys service at the Castle, and forts within this province/

That it appears by the Great Charter granted by the Late King William & Queen Mary, upon which the present Government of this province is founded That all moneys raised by the Generall assembly shall be Issued & Disposed of by warrant under the hand of the Governour with the advice & Consent of the Council for the necessary expense of the province according to such acts as shall be in force, in the province/

That the establishment of the salaries and payments at the Castle and peticularly one hundred pounds per annum to the Captain there was passed by a vote of the Representatives and agreed to by the Council & Consented & subscribed to by the Earle of Bellomont late Governour of this province, in July 1700, & is entered of Record accordingly/

* *Executive Records of the Council*, vol. 4, p. 35.

† *Mass. Archives*, vol. 122, p. 226.

‡ *Executive Records of the Council*, vol. 4, p. 299.

§ *Mass. Archives*, vol. 122, pp. 299 and 325.

That the order signed by the Governour Thursday y^e 12th of October pas't for fifty pounds payable to the Honorable Thomas Povey Esq; Captain of the Castle was for six months pay according to the said establishment as by the muster Roll upon file appears

That any Resolve of the representatives Contrary to an act and order of the Governour Council and assembly without the Consent of the Council & agreement of the Governour, is of no force or value in Law according to the establishment of the present Governmt

That the Resolve of the House of Representatives Dated the Ninth of November 1704. charging the said warrant & proceeding to be arbitrary and illegall & a violation of our English and Charter Priviledges &c are altogether mistaken & a very vnjust Reflection upon the Governour and Council, & so farr from being pernicious and of fatall Consequence, that It has been a Just and Due proceeding according to the Charter the Laws of the province & the Just & necessary methods of proceeding to which The Governour and Council are obliged by their oaths. — *Ibid.*, p. 94.

Six days after the Council sent down the foregoing resolves, the following answer was returned by the representatives:—

“In y^e House of Representatives Non^o b^r y^e 16th 1704

Resolved, In answer to ye Resolue of ye Council Non^o b^r y^e 10th 1704 That ye duty of wines, &c was Granted for the Ends mentioned to be drawne out by his Excel^y & Council according to such Acts as should be in force, in y^e province, & y^t ye Act for Establishment^d of salaries at ye Castle made July, 1700 was in force ye 12th of octob^r Last when his Excell^y & Council signed ye order for ye Fifty pounds

That ye Establishment^d was not Intended for more then one year & doth not in strict Construction of ye words reach further; for when it is sayd Φ Ann^u unless it be sayd for some Terme more or in Generall from time to time Φ Ann^u cannot be understood for more y^e one year: as for example If a bequest is made of 100^l Φ Ann^u If it be not sayd for more then one year, ye bequest Cannot be Legally demandd for more

And soe in this Case In the following years it appears by ye acts of this Court y^t new Grants were made to such as sustained s^d office, w^{ch} there had bene noe need of, If ye establishment^d In July 1700 had bene accord valid for aboue one year; which none Could Imagin wthout ye Cap^t had Φ formed the Cond^t thereto annexed, that it had bene Good for y^t year.

If ye sd Establishment had bene for Euer; certainly y^e Council would hane Informed his Excel^y: who said In his speech oct^br 1702: (when moueing for settled salarys) I know none y^t hane a stated salary vnless it be the Judges & Insisted on the appointing salary for Gov^r Lieut^t Gov^r Secretary Judges, Treasurer, Cap^t of ye Castle &c. which was done at that time, & amongst those named ye Cap^t of y^e Castle for y^t year, & m^r Nathaniell Holms the then Lien^t, who was in y^t post in 1700

If the Establishment^d had been stated for terme of yrs or perpetuity, & ye Cond^t and proviso^s Φ formed by ye Cap^t & his Excel^y & Council might hane fill^d up ye muster Roll accordingly without moueing to this house; for the Cap^t of y^e Castls salary, but ye Cap^t of ye Castle not attending the cond^t annexed to y^t Pretended Establishment^d, ye Gov^r & Council stil layd it before this House, & it appears it was Annually renewed.

The 29th May 1703 Court: held by adjournm^t In June; ye Council past an act & sent it downe for Concurrence; which ye 8th June 1703 this house Consented to, with y^e amendm^t & deduction of officers & souldiers wages postd in Garrisons: which abatem^t or there ought not to have bene an abatem^t of sould^rs wages*

That this house hath past any Resolue Contrary to the Gen^rl Courts act; it doth not to ns appear: But it is evident y^t ye Board hath acted Contrary to the message of this house ye 16th Aug^t 1704. & their explanation of their Vote made July 1703: viz^t That the sayd 100^l was in full for ye Cap^ts wages & service as Comander of ye Castle ye sd year: & y^t this was acted but about a fortnight before this session: makes it the more Greivious; In y^t ye Gov^r & Councils Resolue is too hard upon us seing we were neither mistaken nor vnjust in our Resolue.

JAM^s CONVERSE Speaker —

Read in Council.” — *Ibid.*, vol. 48, p. 367.

A vote[†] of advice and consent was passed by the Council, January 12, 1705-6, for the issuing of a warrant to pay the muster-rolls of the garrison under his command from January 4, 1704-5, to October 31, 1705. His name heads the roll as captain. At the same time a vote[‡] of advice and consent was passed that a warrant issue to reimburse the province treasurer for £708 10s. 8d., which he had paid to Tuthill in advance of the approval of the account of subsistence of the same garrison from April 6, 1705, to January 6, 1705-6. Povey's last appearance at the council board was January 28, 1705-6, on which day a warrant § on the province treasurer was advised and consented to for paying him twenty-five pounds for three months' service from the thirty-first of October, he designing to sail from Piscataqua “by way of Lisbon.”

His intention to return to England was thus published in the News-Letter:—

“Piscataqua, Feb. 15. On Monday 11 Currant arrived here Samuel Ditch in a Sloop from Boston, having on Board the Hon. Col. Tho. Povey Esqr. Lieut. Gov. of Her Majesty's Province of the Massachusetts-Bay, who intends on Thursday next to Imbark on Board Capt. Jarvenin for Lisbon, and so to England.” — No. 96.

A later issue of the same paper announced that Captain Jarvenin sailed on the day of the date of the above entry.

The controversy above described, which was started by Dndley's instructions, assumed a graver import later on, and was one of the grievances which led up to the separation from the mother country.

* See note to resolves, 1703-4, chapter 14. There is no express record of the concurrence of the Council in this amendment by the House; still, the action of the Council in conformity with one part of the resolves implies that they accepted the whole, and renders the presumption conclusive that the amendment of the House to the original resolve was in force; otherwise the anomaly would be presented of the operation of a qualified concurrence as if it were absolute and unconditional.

† Executive Records of the Council, vol. 4, p. 253. See note to resolves, 1705-6, chapter 92, and Mass. Archives, vol. 122, p. 248.

‡ Executive Records of the Council, vol. 4, p. 254.

§ *Ibid.*, p. 261, and see Mass. Archives, vol. 122, p. 249.

Chap. 33. This chapter is from archives, vol. 40, p. 799. It is recorded in council records, vol. VIII., p. 67.

Although in Dudley's instructions the judges were not specifically designated as among the officers for whom he was to endeavor to procure fixed salaries he had in his first speech to the Assembly made for them the appeal printed in the note to resolve 1703-4, chapter 46.

What he said to the Assembly in his speech in October following appears in the notes to resolves, 1702, chapter 64,* and 1703-4, chapter 46.† This was repeated in his speeches, May 27 and July 28, 1703, as shown in the notes to 1703-4, chapters 46 and 50.

As has appeared in the note to resolve 1703-4, chapter 114, the Governor, on the first of September, 1703, communicated the queen's commands relative to procuring a stated salary for the Governor and Lieutenant-Governor, and, at the opening of the October session, communicated a letter from the queen reinforcing them, but nothing further was urged by him in behalf of the judges. On the twenty-ninth of June, 1704, the resolve which constitutes this chapter was passed by the representatives, and on the thirtieth it was concurred in by the Council and consented to by the Governor.

The order in Council‡ for the payment of this allowance was passed July 7, 1704, and the province treasurer's account§ shows that it was duly paid.

Chap. 34. This chapter is from council records, vol. VIII., p. 67.

The original, taken years ago from the state archives, was recently purchased of a dealer in autographs, by Grenville H. Norcross, Esq., to whose courtesy the Editor is indebted for an opportunity to compare it with the record, and to make use of the memoranda thereon of facts not to be found elsewhere. It originated in the House June 29, 1704, and was forthwith sent to the Council, for concurrence. On the next day it was concurred in, and consented to by the Governor.

The order in Council|| for the payment of this allowance was passed July 7, 1704, and the amount thereof, and also the additional sums of £16 10s. allowed by chapter 87, and four pounds allowed by chapter 126, *post*, is charged in the treasurer's account§ as paid, being a total of £34 10s.

Chap. 35. This chapter is from archives, vol. 101, p. 266. It is recorded in council records, vol. VIII., p. 67. See chapters 5, 8 and 23, *ante*.

The fulfilment of the design to send commissioners to Albany was postponed from time to time on account of actual and threatened hostilities on the western frontiers and in northern New York. By the following entry it appears that it was more than a month after the repulse of the attack on Lancaster that the subject of the treaty was resumed and the commissioners received their credentials and instructions:—

"Sept. 7, 1704. The Draught of a Commission and Instructions to Penn Townsend and John Leverett Esqrs for the Treaty with the Maquas and other Nations of the Western Indians, were read and agreed to, Advised and Consented That a suitable Vessel be taken up to attend the sd Commissioners for Albany, and that a Warrant be made out to the Treasurer to advance and pay fifty pounds to Penn Townsend Esqr towards the Charge and expences for himselfe and John Leverett Esqr in their voyage to Albany, agreeable to a resolve pass'd by the General Assembly." — *Executive Records*, vol. 4, p. 64.

The account¶ of the province treasurer shows that the fifty pounds was duly paid.

The following extract from a report by Vaudrenil and Beauharnois, to Pontchartrain, shows that they were aware of the effect of the hostile demonstrations from Canada in delaying the conference between the commissioners and the Five Nations:—

"Though this party broke up, it did not fail, My Lord, to cost the enemy considerable sums; the advices they received of it having obliged them, not only to postpone their meeting the Iroquois nations, but, also, to remain a great portion of the summer idle not knowing where this party might strike. Of this we were informed by letters brought to us by some of our Indians, detached from the main body after having killed those of the English who were conveying the letters to the other villages and forts of their nation." — *Documents Relating to the Colonial History of the State of New York*, vol. IX., p. 764.

For further particulars of the doings of the commissioners see note to chapter 101, *post*.

Chap. 36. This chapter is from archives, vol. 71, p. 60. It is recorded in council records, vol. VIII., p. 67.

Unless the following entry in Sewall's Diary fixes it, the date of Captain Tuthill's assumption of his duties as lieutenant of the Castle has not been ascertained:—

"Augt 12, [1703] . . . This morn. the Lt Govt set out for Portsmouth, Capt. Tuthill goes to the Castle." — *Vol. II.*, p. 84.

In his petition to the General Court assembled October 29, 1707, Tuthill avers that "It is now upwards of three Years that Y^r Petitioner has had the Honour of Serving Her Maj^{ties} and this Province in the Post of Leint & Maj Gunner at Her Maj^{ties} Castle William,"*** etc.

Seemingly confirmatory of this is the following obituary notice of him in the Boston News-Letter of January, 1722; for though not holding, as there stated, the post of captain of the Castle for the period mentioned, he, as lieutenant, was in chief command after the retirement of Povey:—

"Boston, On the Lord's Day Night, the 7th Instant, Died here Capt. Zechariah Tuthill, aged 52 Years. He was a Gentleman entirely and universally esteemed of, and favoured by, all Degrees of People, both High and Low that knew him, being one of a Just, Affordable, Courteous, and Generous Spirit: Adorning the Post he sustained, as Captain of His Majesty's Castle William (the chief Fort of this Province) for about 19 Years past; The

* Province Laws, vol. VII., p. 734.

† *Ante*, p. 293.

‡ Executive Records of the Council, vol. 4, p. 33.

§ Mass. Archives, vol. 122, p. 227.

|| Executive Records of the Council, vol. 4, p. 39.

¶ Mass. Archives, vol. 122, p. 223.

** *Ibid.*, vol. 71, p. 410.

duty whereof he singularly and diligently attended to and carefully and faithfully discharged, to the General content and satisfaction, both of the Government, his Superior Officers and Soldiers, as well as the Inhabitants, and therefore being greatly beloved by all in his Life, he is now as much lamented in his Death. He was Honourably Interred on Thursday last the 11th Currant.' — *News-Letter*, Jan. 13, 1722." — *Sevall's Diary*, vol. III., p. 298, note.

On the other hand the declaration in his petition above quoted seems to indicate that he assumed the captaincy of the Castle in 1704. He certainly held that office March 21, 1703-4, at which date the representatives requested the Governor to order him to be examined on complaints made by certain soldiers of the garrison, and the Lieutenant-Governor who, as commander of the Castle, was his superior, denied the complainants' charges.

The order in Council * for the payment of this allowance was passed July 7, 1704, and the province treasurer's account † shows that it was duly paid.

Chap. 37. This chapter is from council records, vol. VIII., p. 67. It has not been found in the archives.

The order in Council * for the payment of this allowance was passed July 7, 1704, and the province treasurer's account † shows that it was duly paid.

Chap. 38. This chapter is from council records, vol. VIII., p. 67. It is preserved in archives, vol. 101, p. 259.

In his speech ‡ to the representatives at the beginning of this session the Governor, after announcing that the expedition advised by the former Assembly had sailed from Piscataqua about ten days before, and that a scout-shallop had been ordered to bring weekly intelligence from the forces, and that the frontiers had been "reduced to strict garrisons," proceeded, "I am very sensible the Charge of the Province is very great to support these Services, But the Assembly have at all Times (I thank them) Agreed in the Necessity & have cheerfully granted the necessary Charge.

I hope We shall never fall below the Courage & Resolution of English Men to support her Majesties Honour our own just Right to this Province with all humble Submission & Trust in the Favour of Almighty God to defend & maintain us."

The resolve which constitutes this chapter originated in the House June 28, 1704, and was sent to the Council for concurrence. On the thirtieth it was concurred in, and consented to by the Governor.

This resolve was the response to the Governor's suggestion for the supply of the treasury. An act § granting a tax on polls and estates for redeeming the bills printed and emitted by virtue of this chapter was passed on the thirtieth of June the next year and published on the sixth of July. See chapter 124, *post*, and note, for action on the compensation of the committee.

Chap. 39. This chapter is from archives, vol. 62, p. 477. It is recorded in council records, vol. VIII., p. 68.

See chapters 22 and 26, *ante*, and 42, *post*, and notes.

Chap. 40. This chapter is from archives, vol. 20, p. 86. It is recorded in council records, vol. VIII., p. 68.

The order which constitutes this chapter was passed on the last day of the session. After prorogation further steps relating to the address were taken by the Council. July 3, 1704, "John Foster and Andrew Belcher Esqrs with the Secretary" were "named a Committee of the Board to joyne the Committee of the Representatives to prepare an address and Memorial to her Majesty humbly to represent the State of this Province."¶ By the twelfth, Addington, who had been appointed chairman of the joint committee, "reported the draughts agreed to by the Committees which were read, accepted and Ordered to be engrossed & properly signed in the name of both houses."¶ No copy of this address or of the memorial has been discovered either in the English or the state archives or in contemporaneous newspapers; but a controversial pamphlet** printed at London, in 1707, contains the following, which has every appearance of being a correct impression of the original: —

"To the Queen's most Excellent Majesty.

The humble Address of the Council and Assembly of your Majesties Province of the Massachusetts-Bay in New-England.

Most Gracious Sovereign,

It is upwards of two Years since the Arrival of Colonel *Dudley*, your Majesties Captain-General, and Governour in chief here: For whose Appointment to that Station, we formerly humbly Address'd your Majesty, with the Thanks of this Province; and we have been made sensible of his careful Management of your Majesties Interests, and the Government of your good Subjects; particularly of his great Application, and the Cost expended, to have stedyed the *Eastern Indians* in their Obedience to the Crown of *England*, and your Majesty's Sovereignty over them, whereof they have formerly made their repeated Recognition and Submission thereto; and more lately renewed the same, in two Attendencies upon his Excellency, with Protestations of all good Fidelity. Yet notwithstanding, thro'

* Executive Records of the Council, vol. 4, p. 39.

† *Mass. Archives*, vol. 122, p. 227.

‡ June 1, 1704. Council Records, vol. VIII., p. 47.

§ Province Laws, 1705-6, chapter 3.

¶ Executive Records of the Council, vol. 4, p. 36.

** *Ibid.*, p. 40.

*** "A Modest Enquiry Into the Grounds and Occasions of a Late Pamphlet, Intituled, a Memorial of the Present Deplorable State of New-England." Reprinted in *Mass. Hist. Soc. Coll.*, fifth series, vol. VI., p. 65, * *et seq.*

the Influence of the *French* Emissaries residing among them, they have for Twelve Months past, broken out, and continued in open Rebellion and Hostility; and with the Assistance of *French* Officers and Souldiers, from the several Parts, have committed divers Outrages, and barbarous Murders, upon many of your Majesties good Subjects.

Which Irruption of the *Indians*, has oblig'd the Governour to Garrison all the Frontiers of more than Two Hundred Miles extant; and to send forth greater and lesser Parties into the Desert, in places almost inaccessible, if possible, to find out those bloody Rebels in their obscure Recesses under covert of a vast hideous Wilderness (their manner of living being much like that of the Wild Beasts of the same) and to give Check to their Insolencies.

And there are not less than Nineteen Hundred Effective Men, now in Arms under pay, upon our Eastern and Western Frontiers; besides the Vessels and Men, necessarily employ'd for guarding of the Sea-Coast, against the Infestings of the *French* from *Canada*, *Port-Royal*, and the West-Indies, who endeavour to intercept our Supplies, and disturb our Fishery: So that we are at an exceeding great, and almost insupportable Charge; and see not the end thereof. We are ready to think it highly reasonable, That the neighbouring Governments being secur'd thereby, should bear a just Quota of the said Charge. Which is humbly submitted to your Majesties great Wisdom to direct.

We have therefore accounted it our Duty, by an Express, humbly to represent and lay before your Sacred Majesty, the very distressing Circumstances of your Majesties good Subjects, within this your Province, who have hitherto cheerfully undergone the sore Fatigue and Charge of their Defence and Pursuits, made after the Enemy and Rebels; and that in the greatest Severities and Heights of the Winter, exposing themselves to the last Sufferings. Being sensible, that the Advances made by the Governour in the Service have been absolutely necessary; and that his Care has been, to keep the Expense as low as the Emergencies would bear; And we doubt not of a good Concurrence at all times, of the Council and Assembly, with the Governour, to advance both the Men and Money necessary, to the utmost of their Ability.

We crave also by this Opportunity, humbly to express to your Majesty, our just Resentment and Detestation of the Piracies and Robberies lately committed by Captain *Quelch* and Company: And we hope the speedy Justice that has been done upon those vile Criminals, will vindicate the Government from the Imputation of giving any Countenance to, or favouring of such wicked Actions. A full and particular Account of the whole Process, and of the diligent Care taken to recover and secure the Treasure so ill gotten, will be humbly laid before your Majesty by our Governour.

May it please your Majesty, There are several Articles and Stores of War, necessary for the Safety and Defence of your Majesties Interest, within this Province, that cannot be supply'd here; which we have most humbly offer'd to your Majesty, in a Memorial accompanying this our Address.

And if your Majesty of your Royal Bounty, shall be graciously pleas'd to order, That they be supply'd out of your Majesties Stores, it will greatly encourage us in the Service of your Sacred Majesty: being always resolv'd to maintain the Honour and Dignity of your Majesties Crown and Government over us; and, by the Favour of Almighty God, to maintain our Station in this Province: which we hope, upon the restoring of Peace, will, by the increase of People and Trade therein, render it self a further Honour and Advantage to your Majesty and the Crown of *England*; for whose long and prosperous Reign over us, and a happy Succession of Protestant Princes, We shall ever pray.

Madam, *Your Majesties most Loyal and Dutiful Subjects,*

In the Name, and by order of the Council

Boston, July 12th. 1704.

Isaac Addington, *Secretary.*

In the Name, and by Order of the Assembly

James Converse, *Speaker.*"

— Page 91.*

For further proceedings on this subject see chapter 42, *post*, and note.

Chap. 41. This chapter is from council records, vol. VIII., p. 70. It is preserved in archives, vol. 101, p. 267.

For the emission of bills of credit under this chapter, although they were ordered to be put out by the treasurer in the manner in which he issued the five thousand pounds authorized by chapter 38, *ante*, it was thought requisite for the Governor and Council to draw a general order or warrant for the whole amount, as follows: —

"Aug. 21, 1704. Pursuant to a Resolve past at the last Session of the General Assembly, that the Treasurer be directed and Impowred to emit the sum of seven thousand pounds, of Bills of Credit on this Province, which he has received or shall receive into the Treasury upon the same fund and for the same uses, as the Five Thousand pounds ordered to be made and emitted at the former session of the said Court.

His Excellency signed a general Warrt or Order to the Treasurer to repeat and Emit the above sum of seven Thousand pounds, of Bills of Credit accordingly, in such payments for which he shall receive Warrants from himselfe, with the advice & consent of the Council." — *Executive Records of the Council*, vol. 4, p. 61.

Chap. 42. This chapter is from archives, vol. 62, p. 482. It is recorded in council records, vol. VIII., p. 70.

By this chapter it appears that Captain Nathaniel Cary was appointed by the Governor as messenger or agent to convey the address and memorial of the Legislature to the queen. Cary received instructions from the Governor, which are thus referred to by Palfrey: —

"In July of this year, [1704] Dudley sent one Captain Cary to England, to represent to Lord Nottingham the state of things in Massachusetts, and procure arms and stores. 'Keep a good courage and temper,' — so Dudley instructed him (July 20), — 'and be loath to return without some favorable provision for us from her Majesty, and represent

the government and its present state with the Indian enemy justly and honorably, as you ought." — *Palfrey's Hist. of New England*, vol. IV., p. 266, note.

On the nineteenth of this month there was presented to the Council and accepted an account of the cost of the cargo of the Sea Flower on her voyage outward, amounting to £340 13s. 3^d., and of the "charge of outfit and victualling of the sd sloop,"* amounting to £70 1s. 11^d., which make up the gross amount stated in the report incorporated in this chapter, and upon this account a warrant was issued for the payment of said gross sum to Andrew Belcher, he having advanced the same for the use of the province.

Cary sailed in the Sea Flower on the twenty-second of July,† taking out with him, as prisoners, Captain Larramore and Lieutenant Joseph Wells, who were sent to England to be tried before the Lord High Admiral as accessories to the piracy of John Quelch and others. The sloop was captured by the enemy on her voyage out, and her commander and Cary were carried prisoners to France. They escaped, and Cary proceeded to London to conduct the business which he was commissioned to transact there for the province, while Welch returned to Boston. Upon receiving tidings of the capture of the Sea Flower, a vote of advice for paying to Belcher the value of the sloop (£580 2s. 6^d.), according to the agreement of the committee, ratified in this chapter, was passed by the Council.‡

The province treasurer's account§ from May 31, 1704, to May 31, 1705, contains a charge of this amount as paid to Belcher.

Although no copy of the memorial to the queen has been found, the following correspondence between the Secretary of the Lords of Trade and Captain Cary, taken in connection with the last two paragraphs of the address, printed in the note to chapter 40, *ante*, sufficiently indicates the nature of the aid sought for in this application: —

Sir

"Whitehall October. 31st 1704

The Lords Comm^{rs} for Trade and Plantations having had under consideration your Memorial relating to Stores of Warr for the Massachusetts Bay, Have commanded me to desire you to Inform yourself amongst Persons Conversant in Military Affairs, what sort of Gunns are proper for the Fort on Castle Island and to give them an Account thereof with all convenient speed, in order to their Reporting thereupon to Her Maj^{ty}

I am Sir Your humble Servant

WM POPPLE Jun^r

To M^r Nathanael Cary. — *Mass. Archives*, vol. 71, p. 77.

"To the R^{ts} Hon^{ble}s the Lords Comm^{rs} of Trade and Plantations.

My Lords

In Obedience to yor L^{ds}ships Commands by M^r Popple of the 31st Ult^o Having advis'd wth several Gentlemen conversant in Military Affairs what sort of Gunns are proper for Her Maj^{ties} Fort on Castle Island, I presume humbly to acquaint yor lordships

That six Bastard Cannon or Cannon of. 7. Inches carrying 42. pound shott; And 14. Demicannon carrying 32. pound shott, (with Ladles, Worms &c^y suitable) are the sizes that are thought by those Gentlemen necessary.

And that considering the Distance Her Maj^{ties} Fort, is from all Supplies, Less than 200. Rounds of shott cannot be thought sufficient for the use of those Gunns: Which also oblige's me to let yor Lordships know, That I am assured by the same Gentlemen that 100. barrels of Powder are requisite for the Great Gunns and small Arms, altho^{ugh} by a mistake in my last Memorial I computed that 50. barrels would be sufficient.

The Number of small Arms not being mentioned in my former Memorial I take leave also humbly to lay before your Lordships: That 500. small Arms and Cutlasses with 100. pair of Pistols and Bayonets are the test that will be necessary for Defence of Her Maj^{ties} Province: All which is humbly Submitted by

Your L^{ds}ships Most obedient humble Servant

London. 2. Nov^r 1704.

NATH^l CARY." — *Ibid.*,

p. 78.

Cary appears to have written to Dudley informing him of the success of his negotiations for a supply of ordnance and stores, but the letter or letters have not been found, and the only evidence that such correspondence took place is the record of a communication from the Governor to the Council on the fifteenth of May, 1705, of "a letter from Capt^l Carey from London of the 24 of March past, importing that her Maj^{ty} of her Royal bounty had been pleased graciously to order twenty Cannon wth other Stores for Her Maj^{ties} service at the Castle within this Province; and that he intended to ship them on the first good ship bound hither" || This letter probably accompanied the above correspondence between Cary and Popple.

For other particulars relating to this voyage, see notes to chapter 47, *post*, and resolves, 1705-6, chapter 93.

Chap. 43. This chapter is from council records, vol. VIII., p. 70. It has not been found in the archives.

Until 1703 the office of commissary was purely military and held by warrant or commission ¶ from the Commander-in-Chief. In the earlier campaigns the incumbent of this

* Executive Records of the Council, vol. 4, p. 48.

† Boston News-Letter, chapter 47, *post*.

‡ January 18, 1704-5. Executive Records of the Council, vol. 4, p. 140.

§ *Mass. Archives*, vol. 122, p. 226.

|| Executive Records of the Council, vol. 4, p. 170.

¶ The earliest form of this commission preserved in the archives was that of the commissary-general in Philip's successful expedition against Port Royal in Nova Scotia. It ran as follows: —

"Boston in the Massachusetts Colony of New-England/.

Whereas you are appointed Commissary General to all the forces now in their Majesties Service on the Expedition against the common Enemy in the parts of Nova Scotia an L^acadie under the conduct of S^t William Philipps K^{nt} Commander Chiefe These are in their Maj^{ties} names King William & Queen Mary to Requite & Authorise you to take under your care and Charge all the stores of Provisions of every kind and cloathing that are or shall be provided for that Service and Care-

office seems to have exercised the functions of adjutant general and quartermaster general, as well as of purveyor and dispenser of ammunition and stores of war, and provider of transportation.

Belcher held this post prior to July, 1703, and his last accounts in that capacity were presented to the Governor and Council and referred to a committee* of that Board on the sixth day of September that year, who, three days later, reported favorably thereon, and a warrant† was issued for the payment of the balance claimed by him. In the province treasurer's account‡ for this year there is a general charge of £10,065 1s. 1d., which presumably included the amount of this warrant.

Before these accounts were thus committed a message to the representatives was sent from the Council "to propose an establishment for a commissary-general and two sub-commissaries for the forces" then raising for the autumn campaign. On the eighth the following entry appears of record:—

"Sept. 8, 1703. Andrew Belcher Esq^r was chosen by the Vote of the Council & the Representatives to be Commissary Gen^l or Commissioner for War."—*Council Records*, vol. VII., p. 433.

The next year, during the vacation after the first session of the General Court, the following order was passed by the Council:—

"Aug. 4, 1704. Ordered. That John Walley Esq^r and Captⁿ Samuel Checkley § be and hereby are appointed auditors of the accounts of Andrew Belcher Esq^r Commissary General, to inspect and Examin^e the same, in order to prepare them to be laid before the General Assembly."—*Executive Records of the Council*, vol. 4, p. 53.

Four days later the Council advised that a warrant be drawn upon the province treasurer for paying to Belcher as commissary-general two thousand pounds, on account, "towards his disbursements and advance of supplies to the garrisons, the Marching Forces in the service and vessels for war, &c^a." ||

On the second day of the second session the report mentioned in the preamble to this chapter was read in the Council and sent down to the House with the vote of acceptance to be concurred in. On the next day the vote was returned concurred in by the representatives and was consented to by the Governor. On the twenty-first a warrant was issued for the payment of the balance of £865 12s. 6d.⁴ and this amount, is certainly included in the general amount of £9059 8s. 1d. entered as paid to him in the province treasurer's account.*

fully & faithfully to secure and deliver out the same according to the usual and Customary allowance, taking & keeping a just and perfect account of what is & shall be of that kind committed unto yo^r Charge of yo^r distribution thereof diligently endeavouring to prevent all Losse wast spoile or Imbezement and appoint such other stewards or Commissarys under you for the end afores^d as shall by [etc.] necessary and in all things diligently to intend the duty of yo^r Place and to Observe and follow the Orders and directions of the commander in cheife making & rendring a Just & true Acc^t of this your Stewardship unto y^e Governour & Council or who they shall appoint to receive the same for w^{ch} this shall be your warrant Given under my hand & seale the day of April 1690. In the second year of their maties Reign

To M^r Henry Dering."—*Mass. Archives*, vol. 36, p. 13.

In the unfortunate expedition led by Phips against Canada the next summer, Dering was again appointed commissary-general. His new commission which differed slightly from the former was as follows:—

"The Governour and Council of their Maties Colony of the Massachusetts Bay in New-England./.

To Mr Henry Dering Commissary General

Whereas you are appointed Commissary General to the Forces rayssed and to be rayssed for their maties Service in the Expedition intended for Canada against the comon Enemy French and Indians, under the conduct of S^r William Phipps K^t General. These are in their maties names to will and require you to take under yo^r care and charge all the Stores of provisions, Clothing and Ammunition that are and shalbe provided for the Supply of the said Forces preventing all wast Loss or Imbezement to the utmost of yo^r power and to distribute and give out the same as from time to time shalbe needed according to the Instructions & directions given you. Keeping true and perfect Accounts hereof that so you may render the same upon the finishing of the said Expedition unto the Governor and Council or such as shalbe Employed by them to receive the same. And you are to appoint such Commissary or Commissarys under you to be yo^r Assistants as you shall find needfull.

Dated in Boston the Eleventh day of July. 1690. In the Second year of the Reign of our Sovereign Lord & Lady William and Mary by the Grace of God of England Scotland France and Ireland King & Queen Defenders of the Faith. &c^a./."—*Ibid.*, p. 157.

The following later form is of the commission to a commissary, who, although inferior to the commissary-general, was chief commissary of the expedition under General Nicholson against Port Royal:—

"Massachusetts./ By his Excelley the Govern^r &

To Arthur Jeffrys Gent. Greeting.—

Trusting in your Skill fidelity and prudence I do by these presents Constitute and Appoint you to be Chief Commissary to the Forces rays'd within this Province for Her Matys Service in the present Expedition to Port Royall &c

Willing and Requiring you diligently and carefully to preserve secure and Looke after the Provisions, Clothing and Stores Ship'd and Entrusted to your care by Andrew Belcher Esq^r Commissary General, for the use and Service of the sd forces, to prevent waste Loss or Imbezement therein and to remove the same as the General shall direct. And you are to observe such Instructions as you shall receive from the said Commissary General, agreeable to the Rules and Establishment of the Governmt for the Issuing thereof; with whom you are to account for the same. For which this shall be yo^r Warrant.

Given under my hand and Seal at Armes at Boston the 9th of August. 1710. In the ninth year of Her Matys Reign."—*Ibid.*, vol. 77, p. 662.

* John Foster, John Walley and Penn Townsend.

† *Executive Records of the Council*, vol. 3, p. 482.

‡ *Mass. Archives*, vol. 122, p. 186.

§ Walley was of the Council and Checkley a representative from Boston.

|| *Executive Records of the Council*, vol. 4, p. 56.

⁴ *Ibid.*, p. 62.

** *Mass. Archives*, vol. 122, p. 226.

Chap. 44. This chapter is from archives, vol. 71, p. 64. It is recorded in council records, vol. VIII., p. 72.

For some account of the office of commissary-general and of its reinstitution see the note to the preceding chapter.

During the previous session this year* the Governor had recommended to the House the consideration of an allowance to the Commissary-General. This recommendation he renewed the present session, as appears by the following entry:—

"Aug. 19, 1704. His Excellency directed Mr Speaker & the House to attend him in the Council Chamber, And being come up, His Excellency recommended to the House the Consideration of a meet Allowance to Mr Commissary General for his great Pains & Service in that Post for the Year past." — *Council Records*, vol. VIII., p. 72.

On the same day the resolve which constitutes this chapter was passed by the House, concurred in by the Council and consented to by the Governor.

On the twenty-first of September a warrant† for the payment of the sum granted by this chapter was ordered to be drawn upon the province treasurer, which was duly paid, as appears by his accounts.‡

Chap. 45. This chapter is from archives, vol. 101, p. 269. It is recorded in council records, vol. VIII., p. 73.

See chapter 124, *post*, and note.

Chap. 46. This chapter is from council records, vol. VIII., p. 73. It is preserved in archives, vol. 101, p. 268.

The accounts presented for paper, ink, presswork, etc., to the committee who superintended the printing of the bills of credit authorized by resolves, 1703-4, chapter 120 and chapter 38, *ante*, are mentioned in the preamble to this chapter as "an account of the charge," because they were sent in as one voucher bearing the approval of the committee, signed by the chairman.

The following is the account with the certificate and votes thereon as it remains in the archives:—

	The Province of the Massachusetts	D ^r
"1704		
March 29	To Mr Sam ^l Phillipps 1 ^d 7 Reme of Paper Deld by Order of the	} 10 - 10 - 0
April . . .	Comitty for Emittig Billes of Cridditt To Mr Joseph Allen	
May. 8 th	at 30s.	
June 8 th	To Mr Joseph Allen 1 ^d Sundryes Uiz	
	To Oyle & other Ingrediences for the Inke	£0 - 09 - 0
	To 12 bushells of Charcoill	£0 - 06 - 0
	To 18 barels of Blacking	£0 - 12 - 0
	To ½ yd of Carcy [kersey?]	£0 - 03 - 0
	To y ^e Printing of 3100 sheets of Billes of Credit }	£19 - 07 - 4
	at 1½ ^d 1 ^d Sheet According to Agreement }	
	To 16 dayes A peece to two Laborors 3 ^d 6 ^d 1 ^d day	£05 - 12 - 0
		£36 - 19 - 4

Mid y^e Abouesd Account is due to the Abouesd P^{rs}ons on: Account of Printing Bills of Credit for y^e Prouince, as Attests

Jⁿ: RUSSELL for y^e Committe

August. 16th 1704./ In Council. — Read and sent down.

In the House of Representatives Augst 19: 1704 Read and ordered That the abov acct be Allowed & Passed.

JAM^s CONVERSE Speaker—

In Council. *Die P^{dict}*. Read and pass^d a concurrence

18th ADDINGTON Secry." — *Mass.*

Archives, vol. 101, p. 268.

On the seventh of September a warrant§ for the payment of the above amount was drawn upon the province treasurer, and his accounts|| show that this amount was paid accordingly, it being included in the item of £114 19s. 4d. charged as shown in the note to chapter 124, *post*.

Chap. 47. This chapter is from council records, vol. VIII., p. 75. It has not been found in the archives.

The trial of Captain John Quelch and his companions is memorable as being the first trial in New England under the act of parliament 11 and 12 Wm. III., chap. 7,¶ for the more effectual suppression of piracy. Kidd and his associates, whose trial and conviction for piracy took place in London, had been sent to England by Bellomont** to be tried

* June 23, 1701. *Council Records*, vol. VIII., p. 61.

† Executive Records of the Council, vol. 4, p. 76.

‡ *Mass. Archives*, vol. 122, p. 227.

§ Executive Records of the Council, vol. 4, p. 64.

|| *Mass. Archives*, vol. 122, p. 228.

¶ The trial for piracy of Robert Munday at Newport, Rhode Island, April 3, 1703, was by a jury, and before the ordinary local tribunal having jurisdiction of criminal cases. This was in open disregard of the king's commission under the act 11 and 12 Wm. III. The only justification pleaded by Governor Cranston for his granting commissions to privateers was that, since the Rhode Island charter had conferred the "Power of Vice Admiralty he was determined to Exercise that power . . . until their Charter was actually and wholly taken away;" and presumably, for the same reason, he claimed the right to try admiralty cases in the local courts. — *Mass. Archives*, vol. 2, pp. 135 and 150.

** Judge Sewall objected, it would seem with good reason, that he knew of no law for sending Kidd out of the province to be tried. Had Kidd been tried here, he must have escaped the death penalty, unless convicted of murder, since by the law of the province the crime of robbery was not capital whether committed on the land or on the high seas.

by a commission of oyer and terminer under the act 28 Hen. VIII., chap. 15. But the difficulties and delays experienced in that proceeding, and the expense incident thereto, were among the considerations which induced parliament by the act 11 and 12 Wm. III., to confer upon the crown authority to issue commissions for the trial of pirates by courts of admiralty, out of the realm. Such a commission was sent to Governor Bellomont for the trial of pirates, from time to time, in Massachusetts, New Hampshire or Rhode Island.* This commission, which bears date November 23, 1700, arrived † in New England after the death of Bellomont, and while Stoughton was acting as his successor, but it was so comprehensive in its direction that it extended of its own force to any of Bellomont's successors, under King William. Upon the demise of the crown the right to act under this commission was renewed by the proclamation of Queen Anne for continuing in office all persons holding places of authority or government under her predecessor, and by the queen's instructions to Governor Dudley recognizing the force of the former commission, and expressing her will and pleasure that in all matters relating to the prosecution of pirates he govern himself according to the act and commission aforesaid.

The offences for which Quelch and his companions were tried were committed on board a brigantine of about eighty tons — the *Charles*, owned by Charles (afterwards Sir Charles) Hobbey, Colonel Nicholas Paige, William Clarke, Benjamin Gallop and John Colman, leading citizens and merchants of Boston, and the circumstances, briefly narrated, were as follows.

The *Charles* was fitted out by her owners as a privateer for an intended expedition against the French enemies of England in Acadia and Newfoundland. On the thirteenth of July, 1703, her commander, Captain Daniel Plowman, received from Governor Dudley a commission to command this private vessel of war in the pursuit of pirates and the queen's enemies, together with instructions to govern his conduct during the cruise. As late as the first of August, the *Charles*, which in the mean time had been manned and equipped, was riding off Marblehead, and on that day Captain Plowman wrote to two of her owners informing them of his inability to take her to sea on account of his severe illness, and suggesting that they come the next day to "take some speedy care in saving what we can." The owners, in response to this letter, went to Marblehead, but Plowman was then too ill to see them, although able to write to them again, urging them to have the vessel sent to Boston and there to have all things aboard of her landed, to prevent embezzlement, and dissuading them from the purpose of sending her out under a new commander, declaring that "it will not do with these people" (meaning his crew), and that "the sooner" the "things are landed on shore the better."

Before the owners could take effectual measures to stop the vessel she proceeded to sea. Prior to her sailing, the crew, under the lead of one of their number, locked the commander into the cabin where he lay sick, and then, conformably to the resolution of Quelch, who came on board after the captain had been secured, they, under his command, made for the South Atlantic instead of their intended destination. Some time after Quelch came the captain was thrown overboard, but whether alive or dead it does not appear. Off the coast of Brazil, not far from shore, between latitude seven degrees, and thirty-six degrees, south, it appears that they captured, between November 15, 1703, and February 17, 1703-4, nine vessels — of which five were brigantines (the largest being of about forty tons); one was a small shallop; one a small fishing-boat; one other a boat not particularly described; and one a ship of about two hundred tons, loaded with hides and tallow and carrying twelve guns and about thirty-five men. All these vessels, apparently, were the property of subjects of the king of Portugal, an ally of the queen of England, and from them they took various commodities belonging to the Portuguese, such as fish, salt, sugar, molasses, rum, beer, rice, and flour, earthenware, linen, cloth and silk, besides one hundred weight of gold-dust, gold and silver coins to the value of one thousand pounds or more, two negro boys, and some great and small guns, ammunition, small arms, sails, etc., — of the total value of some seven hundred pounds more. One of the vessels they sunk, and another they appear to have kept as a tender.

On the eighteenth of August the owners of the *Charles*, learning nothing certain of the fate of their vessel, and concluding from various circumstances that she was bound to the West Indies, wrote a letter (enclosing an official letter from Governor Dudley) to six plantations in the West Indies, respectively, setting forth their interest in her, and authorizing their correspondents to take proper steps to prosecute their claims and recover their property. No tidings of her, however, appear to have been received until after the middle of May, 1704, when her arrival was thus announced in the *Boston News-Letter*: —

* The original commission, rendered nearly illegible by neglect, still remains in the office of the Secretary of the Commonwealth. A similar commission to Bellomont, as governor of New York, is in the New York State Library at Albany, and is recorded in the second volume of *Commissions*, in the Secretary's office, and is printed in *Benedict's Admiralty Practice*, third edition (1894), pp. 73-79.

† April 27, 1701: *Executive Records of the Council*, vol. 3, p. 198.

‡ The treaty of amity and alliance between Great Britain and Portugal, which was signed at Lisbon, May 16, 1703 (renewed by article XXVI. of the treaty of 1810), contains the following, among other articles, as translated from the Latin: —

"1. All former Treaties between the above-said Powers are hereby approved, confirmed and ratified, and are ordered to be exactly and faithfully observed, except in so far as by the present Treaty is otherwise provided and established; so that there shall be between the said Kingdoms and States, their people and subjects, a sincere friendship and perfect amity; they shall all of them mutually assist one another; and each of the said Powers shall promote the interest and advantage of the rest, as if it were his own.

XV. The personal privileges and freedom of trade which the subjects of Great Britain, and the States of the United Provinces, at present enjoy in Portugal, the Portuguese shall, in their turn, enjoy in the Dominions of Great Britain and the States of the United Provinces.

XVIII. Piratical ships, of whatever nation, shall not only not be permitted or received into the ports which their Portuguese and Britanic Majesties, and the States General of the United Provinces, possess in the East Indies, but shall be deemed the common enemies of the Portuguese, the English and the Dutch." — *Hertzel's Treaties and Conventions, etc.*, vol. 2, p. 22.

"Arrived at *Marble-head*, Capt. *Quelch* in the Brigantine that Capt. *Plowman* went out in, are said to come from *New-Spain* & have made a good Voyage." — No. 5.

The crew seem either to have landed at different points along shore, or to have quickly dispersed after landing, for some of them were at Salem, others at Marblehead and others, still, in Boston before all the arrests were made. They had not, however, been long on shore before so many circumstances transpired leading to the suspicion that they had committed acts of piracy against subjects of the king of Portugal, that the story which they had invented of recovering great treasure from a wreck began to be doubted, and even the owners of the *Charles* became so suspicious of their criminal misconduct that they informed against them in writing to avoid the penalties denounced against accessaries by the act of parliament.*

The informers were Colman and Clarke, and the magistrates applied to were Isaac Addington, secretary of the province, and Paul Dudley, attorney-general. This was on the twenty-third of May, and it would seem that Dudley immediately set out to capture them, since, on that day, Judge Sewall, who was returning from Newbury, records that at the tavern in Lynn he met Dudley "in egre pursuit of the Pirates," † having already captured one whom he turned over to Sewall. Sewall sent the captive to Boston under guard of two men, charging them to convey him to Secretary Addington.†

On the next day, in the Governor's absence, the Lieutenant-Governor, in the performance of his official duty and in compliance with standing instructions to the Governor from the Privy Council, issued the following proclamation:—

"By the Honourable Thomas Poby Esq. Lient. Governour. and Commander in Chief, for the time being, of Her Majesties Province of the *Massachusetts-Bay* in *New-England*.

A PROCLAMATION.†

Whereas * *John Quelch*, late Commander of the Briganteen *Charles*, and Company to her belonging, Viz. * *John Lambert*, * *John Miller*, * *John Clifford*, * *John Dorothy*, * *James Parrot*, *Charles James*, *William Whiting*, *John Pitman*, *John Templeton*, *Benjamin Perkins*, * *William Wiles*, *Richard Lawrance*, *Erasmus Peterson*, *John King*, *Charles King*, *Isaac Johnson*, *Nicholas Lawson*, *Daniel Chervalle*, *John Way*, *Thomas Farrington*, *Matthew Primer*, *Anthony Holding*, *William Rayner*, *John Quittance*, *John Harwood*, *William Jones*, *Denis Carter*, *Nicholas Richardson*, *James Austin*, *James Pattison*, *Joseph Hutnot*, *George Peirse*, *George Norton*, *Gabriel Davis*, *John Breck*, *John Carter*, *Paul Giddens*, *Nicholas Dunbar*, *Richard Thurbur*, *Daniel Chuley*, and others; have lately imported a considerable Quantity of Gold dust, and some Bar and Coin'd Gold, which they are Violently Suspected to have gotten & obtained, by Felony and Piracy, from some of Her Majesties Friends and Allies, and have Imbezzled, and Shared the same among themselves, without any Adjudication or Condemnation thereof, to be lawful Prize. The said Commander and some others being apprehended and in Custody, the rest are absconded and fled from Justice.

I have therefore thought fit, by and with the Advice of Her Majesties Council, strictly to Command and Require all Officers Civil and Military, and other Her Majesties Loving Subjects, to Apprehend and Seize the said Persons, or any of them, whom they may know or find, and them secure and their Treasure, and bring them before one of the Council, or next Justice of the Peace, in order to their being safely Conveyed to *Boston*, to be Examined and brought to Answer what shall be Objected against them, on Her Majesties behalf.

And all Her Majesties Subjects, and others, are hereby strictly forbidden to entertain, harbour or conceal any of the said Persons, or their Treasure; Or to convey away, or in any manner further the Escape of any of them, on pain of being proceeded against with utmost Severity of Law, as accessaries and partakers with them in their Crime.

Given at the Council Chamber in *Boston*, the 21th. Day of May: In the Third Year of the Reign of our Sovereign Lady ANNE, by the Grace of God of England, Scotland, France & Ireland, QUEEN, Defender of the Faith, &c. Annoque Domi. 1704.

By Order of the Lient. Governour & Council,

Isaac Addington Secr.

T. POVEY

GOD Save the QUEEN." — *Ibid.*, No. 6.

On the twenty-sixth news came from Rhode Island that five of *Quelch's* crew had purchased a small, decked boat and sailed, it was thought, for Long Island, in season to avoid arrest upon an order sent express from Boston. One of *Quelch's* men was seized by order of Governor Cranston and sent "from constable to constable" to Boston.

* By the following November, the *Charles*, being still the property of the same owners, had sailed upon another expedition as a privateer, under a new commission. See note to resolves, 1705-6, chapter 62.

† *Diary*, vol. II., p. 102.

‡ The following paragraph from the News-Letter, number six, explains the use of asterisks in the above proclamation and adds to the number of pirates declared to have been secured at this time:—

"*Boston*, May 27. Our last gave an Account of Capt. *Quelch's* being said to Arrive from *N. Spain*, having made a good Voyage; but by the foregoing Proclamation 'tis uncertain whence they came, and too too [sic] palpably evident they have committed Piracies, either upon Her Majesties Subjects or Allies. The Names of so many of the Pirates as are in Prison & Irons in *Boston*, have a * just before their Names: *William Whiting* lyas Sick like to dy not yet examin'd. There are two more of them Sick at *Marble-head*, and another in *Salem* Goal and *James Austin* Imprisoned at *Piscataqua*."

On the fourth of June Lieutenant-Governor Usher informed the council of New Hampshire that he had received a letter from Governor Dudley, dated the first of June, "signifying his pleasure to have the Pirate prisoner sent to Boston;" and that he had also "received a Proclamation relating to the Pirates." This proclamation was duly published. On the eleventh Usher communicated another letter from Dudley "intimating that Lorramore was turned Rogue," and desiring that steps be taken to apprehend him and his company. — *Provincial Papers of New Hampshire*, vol. II., pp. 434-437.

§ Mutilated.

On the twenty-ninth Governor Dudley, having returned, issued the following proclamation:—

“By His Excellency, *Joseph Dudley Esq. Captain General and Governour in Chief, in & over Her Majesties Provinces of the Massachusetts-Bay & New-Hampshire in New-England in America.*

A PROCLAMATION.

Whereas during my late absence from the Province of the *Massachusetts-Bay*, for Her Majesties Service in the other part of my Government, *viz. the said Province of New-Hampshire*; The Honorable *Thomas Porey Esq. Lieutenant Governour*, with the Advice of Her Majesties Council, Emitteth a Proclamation for the Seizing & Securing of *John Quelch*, late Commander of the Briganteen *Charles*, & Company, *Viz. John Lambert, John Miller, John Clifford, John Dorothy, James Parrot, Charles James, William Whiting, John Pitman, John Templeton, Benjamin Perkins, William Wilde, Richard Laverance, Erasmus Peterson, John King, Charles King, Isaac Johnson, Nicholas Lawson, Daniel Chervalle, John Way, Thomas Farrington, Matthew Pimer, Anthony Holding, William Rayner, John Quittance, John Harwood, William Jones, Denis Carter, Nicholas Richardson, James Austin, James Patterson, Joseph Hutnot, George Peirse, George Norton, Gabriel Davis, John Breck, John Carter, Paul Giddins, Nicholas Dunbar, Richard Thurbar, Daniel Chuley, Christopher Scudamore*, and others, then violently Suspected of Felony and Piracy, committed upon some of Her Majesties Friends and Allies.

And it being now made Evident by the Confession of some of the said Persons apprehended and Examined, That the Gold & Treasure by them Imported, was rob'd and taken from the Subjects of the Crown of *Portugal*, on whom they have also acted divers Villanous Murders.

I have thought fit, by & with the Advice of Her Majesties Council, to issue forth this further Proclamation, hereby strictly Commanding & Requiring all Officers Civil & Military, & other Her Majesties Loving Subjects, to Apprehend & Seize the said Pirates, or any of them: (The Commander *Quelch, Lambert, Wilde, Dorothy, Clifford, Parrot, Miller, Whiting, Richardson & Austin*, being already in Custody) whom they may know or find, with their Treasure, and to secure the same, and bring them before one of the Council, or next Justice of the Peace, in order to their being safely Conveyed to *Boston*, to be Examined & brought to Answer what shall be Objected against them, on Her Majesties behalf. And whosoever shall discover & Seize any of the said Pirates or Treasure concealed, and deliver them to Justice, shall be well Rewarded for their pains.

And all Her Majesties Subjects & others are hereby strictly forbidden to entertain, harbour or conceal any of the said Pirates or their Treasure; Or to convey away, or in any manner to further the Escape of any of them; On pain of being Proceeded against with utmost Severity of Law, as Accessories & partakers with them in their Crimes: And any who conceal or have in their custody any of the said Treasure, & shall not disclose & make known the same unto some one or more of the Council, with an Account of the Quantity & Species, & render the same unto the Commissioners appointed for that purpose, within the space of Twenty Days next after the Publication hereof at *Boston*, shall be alike proceeded against. And the Sheriffs are required immediately to Publish this Proclamation in the most principal Towns in their County, and Post up the same, and cause it to be Posted up in all other Towns.

Given at the Council Chamber in *Boston*, the *Twenty-ninth Day of May, 1704*. In the Third Year of the Reign of our Sovereign Lady *ANNE*, by the Grace of GOD, of *England, Scotland, France and Ireland*, Queen, Defender of the Faith, &c.

By Order of the Governour and Council,
Isaac Addington Secr.

J. Dudley

GOD Save the QUEEN.”—*Ibid.*, No. 7.

The News-Letter in which this proclamation appears contains the following additional item:—

“Besides those mentioned in Custody already, there is also *Christopher Scudamore, Rich. Laverance & Matt. Pimer.*”

Following this proclamation, Governor Cranston issued one of the same purport in Rhode Island.

In his speech to the House on the first of June the Governor alluded to his efforts to bring the pirates to justice, as follows:—

“The last Week has discovered a very notorious Piracy committed upon her Majesties Allies the Portuguese on the Coast of Brasil by *Quelch & Company* in the *Charles Galley*. For the Discovery of which all possible Methods have been used. And the severest Process against those vile Men shall be speedily taken, that the Province be not thereby disparaged, as they have been heretofore; And I hope every good Man will do his Duty according to the several Proclamations to discover the Pirates & their Treasure, Agreeable to the Acts of Parliam^t in that Case made & provided.”—*Council Records*, vol. VIII, p. 47.

On the sixth, several ounces of gold having been brought to the council board as part of the treasure taken by the pirates, “His Excellency communicated to the Council the Copy of two of his Instructions from her Maj^{ty} the one referring to proceeding against pirates pursuant to the Act of Parliament, for the more effectual suppression of Piracy, and a Commission already sent to this Province directing him to governe him-self relating to Pirates according to the Intent of the Act, and Commission afore mentioned.

And the other relating to the securing of Pirates goods,”* whereupon a commission of inquiry was issued by the Governor, directing *Samuel Sewall*, acting chief justice of the Superior Court,† *Nathaniel Byfield*, judge of the admiralty, and *Paul Dudley*, attorney-

* Executive Records of the Council, vol. 4, p. 26.

† Addington, who, after Winthrop's short term, succeeded Stoughton as chief justice, offered to resign his commission July 23, 1703, but was suffered to retain it with the understanding that “no further service was expected from him therein at present” and that the Governor and Council would consider the subject of filling that place “as soon as possible.” After this and until *Walt Winthrop* was reappointed, February 19, 1707-8, *Sewall* presided, and wrote bore teste in his name.

general, "to repair to Marblehead, & to send for and examin all persons of whom they shall have Information or just ground of suspicion, [that they] do conceal and detain" gold and treasure brought in by the pirates, "either at Marblehead, or parts adjacent, and to take what they shall find into their hands; as also to secure any of the Pirates."*

This was done in compliance with the spirit of the royal instructions; but in order to preserve the appearance of disinterestedness and to avoid a possible accusation of cupidity or nepotism, on the part of the Dudleys — the Attorney-General being the Governor's son — Mr. Thomas Palmer seems to have been quietly substituted for the latter, although he is not mentioned by Sewall as acting with him and Byfield after their sitting at Marblehead. By the seventh, about seventy ounces of gold and nearly an equal weight of silver plate had been brought to the council board by different persons who had received the same of Quelch or his men.

The commissioners proceeded to Marblehead, by way of Salem, where they learned that two of Quelch's company were at Cape Ann, intending to embark on the "Larramore galley," which was at that place under command of Captain Thomas Larramore, a noted privateer.

Although it was late in the evening the commissioners forthwith made out a warrant authorizing a revenue officer at Salem to proceed to the Cape and arrest the pirates. On the eighth, the commissioners held their court in Marblehead, "at Captain Brown's, by the fireside" — Major Stephen Sewall, clerk of the courts at Salem, and brother of the Judge, accompanying them. Early in the morning of the ninth, before the commissioners were out of bed, an express from Cape Ann brought "an account of nine or eleven pirates, double-armed, seen in a lone house there." The commissioners sent for John Legg of Marblehead, colonel of the Essex south regiment, and directed him to have detached and sent from the "northward" companies under his command "such parties as they could raise, to Cape Ann, upon this extraordinary occasion." They also wrote to Colonel John Wainwright, at Ipswich, "to do the like in his regiment, intimating that we were moving thither ourselves to be witness of their forwardness for her majesty's service." The bearer of this letter to Wainwright was instructed to show it to Captain Thomas Fiske of Wenham, on his way. The commissioners, having joined the Rev. Samuel Cheever, the minister of Marblehead, in a prayer for success, followed their messenger as far as Salem, where they took an affidavit of one person to support their proceedings, and sent him on to Boston to report the situation to the Governor.

Major Sewall embarked at Salem on the Trial, a shallop, and, accompanied by the pinnace belonging to Salem Fort, and about twenty men of the militia company under his command, proceeded to Cape Ann by water — following Colonel Legg and the Attorney-General who had already sailed from Marblehead.

Sewall and Byfield, attended by William Gedney, sheriff of Essex, proceeded overland under escort of part of the troop of horse commanded by Captain John Turner. At Beverly, Lieutenant Robert Briscoe, who commanded another troop, was notified, and started for the Cape by way of Chelaco. At Manchester, where tidings of the expedition had preceded them, they found the town militia company "mustering upon the top of a rock," who joined the escort. As they approached Gloucester, the commissioners were met by the bearer of a letter from Dudley and Legg, informing them that Larramore "sailed in the morning and took in the pirates at the head of the cape."† The messenger was inclined to discourage the commissioners from pushing on; but after sending back the sheriff with directions to forward post to the Governor the letter they had received from Dudley and Legg, and parting with such of the Salem troop as were inclined to go back upon learning that "Mr. Dudley had sent to stay the Ipswich regiment," they pressed on to the town, and awaited the arrival of the shallop and pinnace, which came in before dinner.

Having dined, the commissioners came to the resolution to send after Larramore. It having been found difficult to enlist a sufficient number of men, under the person first selected to lead in the pursuit of the fugitives, Major Sewall offered to go himself, upon which Captain Turner, Lieutenant Briscoe, "and many good men" volunteered to serve under him, and a company of forty-three, including the captain, quickly embarked on the shallop. This was towards evening. There was no wind, and so, after sunset, attended by the pinnace, the overloaded vessel rowed out of the harbor bound for the Isles of Shoals, giving the commissioners and the soldiers on land "three handsome cheers," at their departure.

Sewall and Byfield remained at Gloucester over night, edified by evening and morning prayers, "for the expedition," by the minister of the town, the Rev. John White, while Dudley proceeded to Salem escorted by the Beverly troop.

The commissioners began their homeward journey early the next morning, reaching Salem "quickly after nine." Here Sewall dined with his brother's wife, and administered what cheer he could to her and the townspeople who were in terror at the thought of the risk his brother and the men under him were running in their, possibly, bloody encounter with pirates whose "wickedness and despair," and whose "great guns and other warlike preparations," boded great danger if not disaster. Dudley having rejoined them, the three proceeded to Lynn, where Byfield left them for Cambridge, and Sewall and the Attorney-General kept on to Boston.

Meanwhile the shallop and pinnace had reached the Isles of Shoals about seven o'clock on the morning of the tenth. By secreting all their men except four fishermen the pursuers, without exciting suspicion, came up with Larramore, three of whose men, with three of the pirates, they were pleased to see go ashore at Star Island in the boat belonging to the galley. There was some commotion among Larramore's men, and a brief show of resistance, when they discovered Sewall, but when the latter had shown his men, armed,

* Executive Records of the Council, vol. 4, p. 26.

† "Gloucester . . . June 9 . . . a Boat was seen to go off from the head of the Cape, near Snake Island, full of men, supposed to be the Pirates." — *Boston News-Letter*, No. 9.

and ready to board, Larramore's only excuse for declining an invitation to come on board the shallop was that he was prevented by his boat's being ashore. Sewall made this excuse a pretext for manning the pinnace to go on board the galley, which was so quickly accomplished that Larramore readily consented to hold a conference with Sewall on shore. This conference resulted in the issue of an order from Larramore to his lieutenant to come ashore with one of the pirates, and another order putting the galley under command of one of Sewall's men until they returned. Thus the capture of the galley was effected, as Sewall's brother records in his diary, "without striking a stroke or firing a gun."

Having secured the pirates, together with the officers of Larramore's galley, as shown by the News-Letter's account given below, Sewall set sail for Salem with his captives, and, with the galley in tow, soon reached Cape Ann, where the Gloucester men were set ashore with directions to notify the inhabitants that William Jones and Peter Roach, two of the pirates, who had lost their way, had been left on the cape by their companions. These pirates surrendered on the afternoon of the following day, and were committed to Salem jail.

The following is from the News-Letter, number nine:—

"*Salem, June 11. [1704.]* This Afternoon, Major *Sewall* brought in to this Port, the *Larrimore* Galley, and Seven Pirates, viz. *Erasmus Peterson, Charles James, John Carter, John Pitman, Francis King, Charles King, John King*, whom he with his Company Surprized and Seized at the Isles of *Sholes* the 10th. Instant, viz. four of them on Board the *Larrimore* Galley, and three on Shoar on *Starr* Island, being assisted by *John Hinckes* and *Thomas Phipps* Esqrs. Two of Her Majesties Justices of *New-Hampshire*, who were happily there, together with the Justices, and the Captain of the place. He also Seized 45 Onnces and Seven Penny weight of Gold of the said Pirates.

Capt. *Thomas Larrimore, Joseph Wells* Lieutenant, and *Daniel Wormmull* Master, and the said Pirates are Secured in our Goal."

Before the return of the expedition a warrant had been issued for the apprehension of Captain Larramore, and by the tenth two more of the pirates * were in custody.

By the thirteenth the prisoners had arrived at Boston which event was announced, in the same newspaper that contained the account of their commitment at Salem, as follows:—

"On the 13. Instant, Major *Sewall* attended with a strong guard brought to Town the above mentioned Pirates, and Gold he had Seized, and gave His Excellency a full Account of his Procedure in Seizing them. The Prisoners were committed to Goal in order to a Tryal, and the Gold delivered to the Treasurer and Committee appointed to receive the same. The Service of Major *Sewall* and Company was very well Accepted and Rewarded by the Governour." — *Ibid.*

The Governor's intention to promptly proceed to try the alleged pirates was published in the News-Letter under date of the tenth of June, and, accordingly, on the day of their arrival a Court of Admiralty was convened at the town-house. This celerity was in keeping with the progress of the case from its inception, and may be accounted for by the prospect, which a speedy conviction offered, of generous allowances to all who should be active in bringing the freebooters to trial. Their ill-gotten treasure, which was sure to pass into the hands of the queen's officers, was reputed to be immense, and by the time the suspected criminals were arrested enough of it had been already secured to make certain the bestowal of handsome rewards and exceptionally large fees to the informers, lawyers and magistrates concerned in their capture and prosecution.

This tribunal was composed of incumbents of certain of the offices designated in the royal commission, including the governor and lieutenant-governors of Massachusetts and New Hampshire and the judge of the vice-admiralty for those provinces; the chief justice of the Superior Court of Judicature, the secretary of the province, and the members of the Council of Massachusetts Bay, and the collector of customs for New England—all of whom appear to have been present, the nominal Chief Justice in his capacity of Secretary of the province and Samuel Sewall, the acting Chief Justice, who was also one of the Council.

Proclamation for silence having first been made, the act and commission of King William were read; and, the act requiring that the register of the court should be a notary public, John Valentine† of Boston, who held that office, was sworn by the President. The Register then administered the prescribed oath to the President, and he, in turn, swore his associates.

The Court was opened by three proclamations as a Court of Admiralty for the trial of pirates; after which the queen's proclamation and the instructions above mentioned were read.

Being thus organized, the Court ordered a warrant to be issued to bring Quelch before them from jail, and, pending the return of the officer, they adjourned to the afternoon, "when [says the printed report] the court being met and opened, Matthew Prymer, John Clifford and James Parrot [the first of whom had surrendered himself quickly after his arrival, to the Governor] were brought to the bar, and arraigned upon several articles of piracy, robbery and murder, drawn against Captain Quelch, and others, his accomplices." To these articles, *mutatis mutandis*, these three severally pleaded guilty and were "received into the queen's mercy" and declared "witnesses in behalf of the queen against John Quelch and company." These prisoners were then ordered to "stand within the bar and be sworn as witnesses on her majesty's behalf."

Quelch was next brought to the bar, and being arraigned upon the articles aforesaid, pleaded not guilty and moved "for time to prepare for his trial" and that counsel be allowed him "upon any matter of law that might happen upon his trial." In response

* Benjamin Perkins and John Templeton.—*Boston News-Letter*, No. 8.

† Appointed notary by the Governor and Council September 7, 1699.

to the latter request the Court assigned for his assistance, Mr. James Meinziez,* a Scotchman resident here, who had made a considerable figure at the bar both in the common law and the admiralty courts of New England. Quelch was also granted three days' time for preparation, and, an order being first passed to furnish him with a copy of the articles exhibited against him, he was remanded to prison.

Twenty other prisoners were similarly arraigned, and, pleading not guilty, were, in like manner, granted time and the assistance of Meinziez as counsel. The Court then adjourned to Friday, the sixteenth.

When the Court reassembled, the prisoners, upon the petition for further time, by Quelch "in behalf of himself and the rest," were "allowed time till Monday morning next at nine of the clock, and then peremptorily to come upon their trials." After a motion by the prisoners' counsel "that the queen's witnesses might be kept asunder till the prisoners came upon their trials," which was refused as unprecedented (the Court, however, directing "that at their examination at the bar they should be separate"), "the Court adjourned till Monday morning at nine of the clock."

On Monday, the nineteenth, according to adjournment, Quelch was set to the bar to be tried, and his irons were removed. The prosecution was conducted by Paul Dudley, "attorney-general, and her majesty's advocate for the Court of Admiralty," assisted by Thomas Newton, the leading lawyer of the province.

Although by the civil law,† in accordance with which both the act of parliament and the commission required that the defendants be tried, two innocent witnesses against each defendant were necessary for conviction, and, in case of murder, only he or they who actually gave the fatal stroke were to be deemed guilty, — and in no case was the testimony of an accomplice admissible, — the Court, in the admission of testimony, not only permitted the greatest latitude possible under the common law, but disregarded the established rules for excluding interested witnesses. It was not alleged in the articles, nor was testimony adduced to show, that during their piratical expedition more than one man was killed by any of Quelch's company. It was not doubted, even by the prosecution, that some one else than Quelch killed the Portuguese captain, yet on the word of a negro slave of the dead captain — a boy, who testified (not without some apparent contradiction) through an interpreter, and the only evidence of whose competency, as a Christian,‡ was his own declaration as to his baptism, — Quelch, without the intervention of a jury, was found guilty "of the several articles of piracy, robbery and murder wherewith" he was charged.

The queen's witnesses who testified to the general acts of piracy were incompetent equally by the civil and by the common law. By the civil law their admitted guilt barred them both on the ground of self-interest and as participators in the crime; by the common law they were excluded, on the one hand, as having neither received the queen's pardon nor as being within the statutes § favoring criminal accomplices, and, on the other hand, as not having been corroborated by unimpeachable testimony. It appears to have been claimed by the queen's counsel that they were offered as "approvers," but if this was the case, the offer was not legitimate since the "great strictness and nicety" which, as Blackstone intimates, this obsolete form of accusation required were wholly wanting both in form and substance,|| and the only capacity in which they could have testified against their companions was that of witnesses for the crown, according to the common law.

On the nineteenth, Quelch having been allowed to speak in his own defence, the Court was cleared for advisement, after which he was again brought to the bar, and the judgment of the Court against him declared, and sentence of death pronounced upon him. On the

* He was afterwards register of the court of Vice-Admiralty, of which his brother John was judge. Perhaps no other eligible person could have defended the accused with greater skill and learning. In the meagre report of the points raised and the arguments made for the defence, while enough is given to justify the inference that he did not fail to call the attention of the Court to the most important legal objections to the course of the prosecution, there is room for doubt if he was as persistent and emphatic as the merits of the case required. Perhaps, however, the relations between the bar and the bench at that day may have rendered a hopeless contention against the obvious opinion of the court as impolitic as it was unavailing.

† " . . . and to do all things necessary for the hearing and final determination of any case of piracy, robbery, and felony; and to give sentence and judgment of death, and to award execution of the offenders convicted and attainted as aforesaid, according to the civil law, and the methods and rules of the admiralty," &c. — *11 and 12 Wm. III., chapter 7, § 4.*

The act of parliament 4 Geo. I., chap. 11, gave the right to try pirates in the British Colonies in America according to the provisions of 28 Hen. VIII., chapter 15. From and after the passage of this act, therefore, pirates might be tried in any of the British American Colonies, either according to the civil law, or according to the common law by a jury and the rules of evidence followed in the common-law courts.

The practice of trying pirates in the colonies according to the civil law was so well settled that Judge Stokes declares that at the former of two trials in America for piracy at which he was present, though held after the passage of the act of 4 Geo. I., chap. 11, "the prisoners escaped, because they were tried according to the course of the Civil Law, and there was but one witness against them; and the Solicitor-General was not aware" of the change in the law. — *A View of the Constitution of the British Colonies, etc., p. 233.*

The Massachusetts act of 1696, chapter 4, was superseded or suspended by these acts of parliament. Under the act 11 and 12 Wm. III., principals only were triable in the admiralty courts held in the colonies, — necessarily being expressly required to be sent to England to be tried by a commission of oyer and terminer under the act of Hen. VIII.

‡ If a heathen, he was incompetent to testify.

§ 4 and 5 Wm. and Mary, chapter 8; 6 and 7 Wm. and Mary, chapter 17; 10 and 11 Wm. III., chapter 23.

|| It was a fundamental doctrine that the approver must have confessed before pleading. In the present case, therefore, even if all the other circumstances were sufficient, the plea of guilty was not a proper confession. But a still more decisive objection was that approvals were common-law proceedings before judges competent to assign a coroner to entertain the appeal, which could only be against persons *within the realm* and while the approver was in prison upon indictment. Clearly these commissioners were not such judges, nor were the articles exhibited against the accused such an indictment, as would fulfil the conditions necessary to the acceptance of either of the accused as an approver. — *Coke's Third Institute, 129.*

next day four others of the prisoners who had pleaded not guilty were tried, and two of them were condemned and sentenced, in the same manner, on that day, and the other two on the twenty-first. Two more who were tried on the twentieth on the same accusation were acquitted on the twenty-first and ordered to be discharged on paying the prison fees. Fifteen more who had pleaded not guilty presented a petition on the twentieth, —

“Praying that they might withdraw their several Pleas of Not Guilty, and be admitted to confess and plead Guilty hoping thereupon for the Queens Mercy, &c.

Upon which they were each of them askt whether they set their Hands to that Petition? And they all severally own'd they did.

Pres. You who have here subscribed this Petition, must be told, That your Commander, and some others of your Company have had their Tryals, and are found Guilty : We don't take your pleading Guilty now to be any Submission, nor will it of it self entitle you to Mercy. This Court can make no Bargain with you. If any of you can be distinguished, as being forced away, professing against the Voyage, Sickness, or the like, this Court will Consider of it, so far as is proper for them.

Mr. Register, you must ask each of the Prisoners one by one, Whether they are Guilty or not Guilty, of what they are charged with.” — *Printed report of the trial of Quelch and others of his company, p. 17.*

Accordingly they severally repeated the plea of guilty, and, on the twenty-first, sentence of death was passed upon them as upon those found guilty after trial.

Three negroes, one of them the property of Captain Plowman, and taken by him to sea, and the others the slaves of Hobby (who were shown to have been forcibly carried away in the brigantine) were acquitted on the twentieth, it appearing that they “handled no arms,” although two of them had served as cooks, “and sounded the trumpet when they were commanded.”

As has been already stated Meinziez seems not to have omitted to interpose in behalf of his clients nearly every important legal objection. In the first place he opposed the offer, by the queen's counsel, of the London Gazette of May and July, 1703, to prove the ratification of the treaty of amity with Portugal. But the president avoided this objection (which was opposed by Newton) by declaring that proof of the existence of such a treaty was not necessary if there was actually no war between England and Portugal at the time of the alleged piracy, and cited Kidd's case, who was “hanged for robbing the Great Mogul.” Meinziez, after several pertinent comments on the insufficiency of the evidence, next argued that, according to the civil law, Quelch had not been proved guilty of murder, inasmuch as “it is well known he was not the man that did the fact,” and further that the queen's witnesses were incompetent in that they had “not had her majesty's pardon,” and because the act 11 and 12 Wm. III. prescribed that the trials by this Court be according to the civil law, under which “no accomplice can be a witness.” The permitting them to testify, he contended, “will be inconsistent with the act of parliament itself, whereby the persons accused have not only the benefit of cross-examining the witnesses, but also of bringing evidence for their own vindication; and it may be thought as proper to bring some of their own company for their clearing, as the other evidences for the accusing them.” To the answer of the queen's advocate, — that the act of Wm. III. was so far controlled by the statute of Hen. VIII., that the requirement that trials under the commission should be according to the civil law applied only to the summary proceedings of the tribunal, and did not change the rules of evidence prescribed by the earlier statute, he cogently gave as a reason for his dissent from this view the fact that under the statute of Hen. VIII. the accused were allowed the benefit of a trial by jury, which it was admitted was denied them under the statute of Wm. III.; and hence, in consideration of the loss of this privilege, and as “an equivalent to a jury,” the accused were accorded under the later statute the benefit of the stricter rules of the civil law.

On this last vital point, however, the Court accepted the views of the queen's advocate, who contended that although it was true that by the statute of Wm. III. the trials were to be according to the civil law and the methods and rules of the admiralty, yet the “methods” of the admiralty in regard to the admission of evidence having for “now about an hundred and three score years” been in conformity to the rules of the common law — “a term long enough to make a method of any court” — it was too late to suppose that any change in this method was intended in the statute of Wm. III. which “doth strengthen and establish the Statute of Henry the VIII. And it would be very odd to suppose that what the first Act of Parliament in these cases had rejected and condemn'd, the method of the civil Law in the trial of Pirates, &c. The second Act of Parliament should be reconcil'd to that Method, to restore and set it up in the Plantations, especially when the Title of the New Act, is an Act, *For the more effectual Suppression of Piracy, &c.*”

On Friday, the thirtieth, Captain Quelch,† John Lambert,‡ Christopher Scudamore,§ John Miller,|| Erasmus Peterson,¶ Peter Rouch,** and Francis King †† were brought to the place of execution, in Charles River, off a point of land below Copp's Hill,‡‡ and all, save the last, who was reprieved by the Governor, were hanged and afterwards gibbeted.

Perhaps the most trying ordeal which the sufferers underwent was the attentions of the clergy. Cotton Mather, who was habitually an interested spectator at public executions,

* Printed report of the trial of Quelch and others of his company, p. 14.

† Born in London, England; about thirty-eight years old.

‡ Born in Salem, Mass.; about forty-nine years old.

§ Had served his apprenticeship to a cooper at Bristol, England; about twenty-eight years old.

|| Born in Yorkshire, England; about forty years old.

¶ Born in Switzerland [Sweden?]; about twenty-five years old.

** Born in Ireland; about thirty years old.

†† Born in Scotland; about thirty-two years old.

‡‡ The act provided that they should be executed “In such place upon the sea, or within the ebbing or flowing thereof, as the president or the major part of the court, by warrant directed to a provost marshal (which the president or said major part shall have power to constitute) shall appoint.” — *Section VI.* † Mather preached a sermon upon the execution, which was printed under the title of “Faithful Warnings to prevent Fearful Judgments.” — *Prince's MS. Catalogue: Mass. Hist. Society.*

labored for the benefit of their souls in his peculiarly harrowing and reproachful style. In the chamber of the prison on the Tuesday before their execution he prayed for, preached to, and catechised them, as Sewall says, "excellently." He and another clergyman walked with them, as, guarded by forty musketeers, constables of the town, the provost marshal, etc., they marched in solemn procession to Scarlet's Wharf; and he there embarked with them on their melancholy voyage to the gallows, preceded by the silver oar of the admiralty. The exhortations to the condemned, and Mather's long prayers, in which he interlarded extravagant invectives against these unhappy men with interjections and ejaculations and warnings to the multitude of spectators, crowded into boats upon the water and covering the adjacent shore, to profit by their terrible example, were duly printed in the News-Letter, together with the dying speeches of the men. Sewall thus depicts the scene of the execution:—

"*Feria Sexta*, Junij, 30, 1704. . . . After Dinner, about 3. p. m. I went to see the Execution. . . . Many were the people that saw upon Broughton's Hill. But when I came to see how the River was cover'd with People, I was amazed: Some say there were 100 Boats. 150 Boats and Canoes, saith Cousin Moody of York. He told them. Mr. Cotton Mather came with Capt. Quelch and six others for Execution from the Prison to Scarlet's Wharf, and from thence in the Boat to the place of Execution about the midway between Hanson's point and Broughton's Warehouse. Mr. Bridge was there also. When the scaffold was hoisted to a due height, the seven Malefactors went up; Mr. Mather pray'd for them standing upon the Boat. Ropes were all fasten'd to the Gallows (save King, who was Reprieved). When the Scaffold was let to sink, there was such a Screech of the Women that my wife heard it sitting in our Entry next the Orchard, and was much surprised at it; yet the wind was sou-west. Our house is a full mile from the place."—*Diary*, vol. II., p. 109.

According to the barbarous custom of the times the bodies remained hanging on the gibbet until, by decay or the attacks of birds of prey, they gradually disappeared.

The first number of the News-Letter published after the execution contains this item:—

"His Excellency intends to send an Express to *England*, with an Account of the whole matter to Her Majesty."—*No. 11.*

The Governor had already given to the representatives "an account of the proceedings against the pirates." This was on the twenty-third of June, and, by the twenty-second of July, this account had been written out and sent to the Privy Council by Captain Cary, the bearer of an address to the queen, in which the piratical acts of Quelch and his crew were unadverted upon and the result of their summary prosecution used to vindicate the provincial authorities against any suspicions of complicity with such outlaws.

The issue of the third week in July thus announced the departure of the accessaries:—

"Captain Cary Sailed* on Saturday last, in the Express Sloop† for *England*, with an Account of Capt. Quelch and Company's Tryal, &c. who carries with him Capt. *Thomas Larimore* and *Joseph Wells* Lieutenant (mentioned in our Numb. 9 Print, as Accessaries in endeavouring to carry off the 7 Pirates then taken) as Prisoners to the Queen: He carries also with him three Evidences of their crime committed."—*No. 14.*

Quelch in his last speech said, "I desire to be informed for what I am here. I am condemned only upon circumstances;" and, again, he warned his hearers to "take care how they brought money into New England to be hanged for it." Peterson complained "of injustice done him, and said it is very hard for so many mens' lives to be taken away for a little gold." Lambert "pleaded much on his innocence" and "desired all men to beware of bad company."

Of those who were executed, two (Roach and Peterson) were among the fifteen who retracted their plea of not guilty and pleaded guilty. Francis King, who was reprieved at the gallows, was also one of these fifteen. James, who was tried and convicted, and thirteen others, among whom was Francis King, remained in prison awaiting the pardon of which those that survived had the benefit.

With the address to the queen was sent the Governor's application for the pardon of the pirates still in prison. It was not, however, until July 19, 1705, that Dudley communicated to the Council a letter‡ from the Right Honorable Sir Charles Hedges, Principal Secretary of State, "signifying her majesty's most gracious pardon" of the "fourteen" condemned men. The prisoners were sent for, "their Pardon declared in open Court, [and their] Chains knock'd off" § on condition that they enter the queen's service. At the same time a new commission, received in the same despatch, for the trial of pirates was read by order of the Governor, and afterwards "directed to be put on record."

It is noticeable that Sewall states that the "surviving" pirates were pardoned, and this suggests a possible explanation of the discrepancy between the number stated in the queen's letter and the number given in the following account in the News-Letter:—

"On Thursday the 19th Instant, His Excellency our Governour Sat in a Court of Admiralty for Tryal of Pirates, &c. and Published Her Majesties Commission for the said Court directed to himself, the Lieutenant Governour, the Council, and several other Gentlemen.

After which the 7 Pirates of *Quelch's* Crew remaining in Goal were set to the Bar, viz. *Charles James, Wilham Wildes, John Dorrothy, John Pittman, John Carter, Dennis Carter and Charles King*: His Excellency acquainted them, that whereas 13 months since they

* "Permitted to clear Outwards *John Welsh*, in *Sea flower* Sloop for *England*."—*Boston News-Letter*, No. 14.

† The *Sea Flower*, Captain John Welch. For the particulars of this voyage, and Cary's mention of Larimore in his account with the province, see the note to resolves, 1705-6, chapter 93.

‡ With this were inclosed three acts of parliament accompanied "with Order to cause them to be published within these Governm^{ts}, which was ordered to be done by the Sheriffe on Thursday the 25th curry, some of Her Maj^{ty's} Justices and other Gentlemen being desired to be present."—*Executive Records of the Council*, vol. 4, p. 199.

§ Sewall's *Diary*, vol. II., p. 135.

were Arraigned and Condemned at that Bar for Piracy, and 6 of the chief of them were Executed, he was now Advised by Her Majesty's Principal Secretary of State, That the Proceedings of the Commissioners in that Matter were very well taken and approved of, by Her Sacred Majesty, and that Her Majesty whose Prerogative alone it is to pardon and shew mercy to such Condemned Criminals as they were, had been graciously pleased upon the Application and Representation of Her Governour to pardon them: And he expected as he had kept his word and promise to them in applying for Her Majesty's mercy to them, they would remember and keep theirs with him, in being honest, sober and good men for the future; That as they had now new Lives given them, they should be new men, and be very faithful and diligent in the Service of Her Majesty; who might as easily and justly have ordered their Execution this day as sent their Pardon.

And then His Excellency Published part of a Letter from the Right Honourable Sir Charles Hedges, Principal Secretary of State, signifying Her Majesty's Pleasure upon the Governour's Humble Application to Her Majesty to Pardon the remaining Pirates (of whom 6 were Executed last year) and the before-mentioned 7 were accordingly Discharged, and will be disposed of in Her Majesty's Service by the Governour." — *No. 66.*

Wilde broke out of prison, but was recaptured, as appears by an item in the News-Letter of the last week in June, 1705.*

While proceedings in regard to the disposal of the pirates were in progress, accounts of charges were coming in to the Council for services and expenses incurred in their capture and trial. The following entry appears under date of the fourteenth of June, 1701:—

"An Account presented by Major Stephen Sewall for charge in pursuit after and apprehending of Charles James and six other of the Pirates of Quelch's Company, was allowed with an addition thereto made for gratification of Major Sewall, Captⁿ Turner and other Officers, amounting in the whole to one hundred thirty two pounds, five shillings to be paid out of the Treasure imported by the said Pirates." — *Executive Records of the Council, vol. 4, p. 29.*

The next day the commissioners of inquiry presented their account, which was provided for, as follows:—

"June 15, 1704. An Account of the Expence of Samuel Sewall, Nath^l Byfield and Paul Dudley Esqrs in sitting at Marblehead upon a Commission of Inquiry after the Gold & Treasure imported by Quelch and Company, declared Pirates, & charges of pursuit after some of the said Pirates, was presented, and the sum of Twenty five pounds, seven shillings & ten pence allowed therefore, and for their own service. And several other Bills of charges for pursuit after, and apprehending several of the said Pirates, were presented and the sum of fifteen pounds, seventeen shillings allowed to the several persons therein named, to be paid out of the Treasure seized." — *Ibid., p. 30.*

On the fourth of August Mr. Meinziez presented a petition which (since it is one of the numerous papers which have found their way into private hands from the public archives) is hereunder given in full, together with the action of the Council thereon, as follows:—

"To his Excellency Joseph Dudley Esq^r Cap^t Gen^l & Gov^r in Chief In & over her Maj^{ty}s Province of the Massachusetts Bay &c. In New England & vice Admirall of the Same & to her Maj^{ty}s honorable Council in Sd Province.

The Petition of James Meinziez Attorney at Law;

Humbly Sheweth

That Whereas, In the high & honorable Court of Admiralty held in Boston upon the 13th day of June 1704, by your Excellency & the Rest of the honorable Commissioners for trying of Piracy &c. Your Petition^r was allowed & Appointed to be Council for Capt John Quelch & others of his Company to the number of Twenty Two prisoners, Arraigned in the Sd honorable Court upon Several articles of Piracy, Robbery &c. Exhibited ag^t them, your Petitioner did faithfully & diligently perform & discharge his duty in the Service of Sd Prisoners, dureing their Tryall, by frequent Attendance upon them in the prison, both before; & after tryall by himself & his Clerk for takeing Information from them Whereby he Should be more able to Council, Advise & plead for them upon the points of law Arriising from the matter of fact So far as he Could be Capable for the hon^r of her Maj^{ty} & the Safety of the prisoners; And he as yet having Received no Sutable Reward or fee from any of the Prisoners, They affirmeing that all their gold & money was taken from them & delivered to the Gen^l Treasurer of Sd Province

Your Petitioner therefor humbly prays your Excellency & Council will be pleased to Consider the premises & to order payment to your Petitioner of Such Sume as your Excellency & Council Shall think fitt to allow for his Service aforesd being according to Customs in the like Case, And your Petitioner Shall ever pray &c.

JA MEINZIES

In Council. August. 4th 1704. —

Refer'd to my Attourney General and Thomas Newton Esq^r to Inquire & Informe themselves, what is usual and Customary in like cases and to Report the same. —

Is ADDINGTON Secy." — *Left-fingwell Collection of Manuscripts, sale-catalogue number 3825.*

On the twenty-sixth of October the order which constitutes this chapter was passed, and in accordance therewith the Council met at the appointed time and passed upon several claims that had been presented, as follows:—

"Nov. 1, 1704. To Stephen North Taverner,† for entertainment of the Commissioners

* "Boston, On Tuesday the 26th Instant, Willam Wilde, one of the Privateers of Quelch's Crew who was condemn'd to dye for Piracy, and reprieved till Her Majesty's Pleasure concerning him and his fellows was known, who made his escape out of Prison here the 7th day of September last, was this morning apprehended and committed to close Prison." — *Boston News-Letter, No. 63.*

† North kept the Star Tavern on the corner of Hanover Street and that part of the present Union Street which lies west of Hanover. Link Alley, later known as North Federal Court, formed its western boundary.

during the sitting of the Court of Admiralty, and for Witnesses, Twenty eight pounds, Eleven shillings and six pence.

To Lieut^g Gov^r Usher, Expenses in securing and returning of James Austins Gold, from the Province of New Hampshire, three pounds, ten shillings.

To Charles Storey Esq^r Secretary of the aforesaid Province, for charges in apprehending & Examining of the s^d Austin, Forty shillings.

To Richard Josse Sheriffe of New Hampshire and his Officers and under keeper, for charge of keeping the s^d Austin, expences in his sickness, and charge of conveying him into this province, Nine pounds five shillings.

To Mr James Meinzie of Council for the Prisoners on their Tryal, assigned by the Commiss^{rs} Twenty pounds.*

To Henry Franklyn Marshal of the Admiralty for the Gibbet,† Guards and Execution, Twenty nine pounds, nineteen shillings.

To Samuel Wakefield Dep^y Marshal of the Admiralty for charges on apprehending several of the s^d Pirates, Four pounds five shillings & six pence.

To Mr Aphorpe and Mr Jesse two of the Constables of Boston for their service & c^a abt apprehending the said Pirates, Forty shillings.

To the Constables of the Several Towns betwixt Bristol and Boston for apprehending and conveying of Christopher Scudamore, two pounds eighteen shill^g

To Capt^g Edward Brattle charges on a Negro boy Imported by the s^d Pirates, Twenty five shillings.

To Andrew Belcher Esq^r charges for Clothing of the Witnesses sent for England with Larrimore & Wells charged as accessaries, seven pounds, eighteen shillings." — *Executive Records of the Council*, vol. 4, p. 101.

At another meeting of the Council, on the eleventh, the following awards were made on additional claims : —

"To Paul Dudley Esq^r the Queen's Advocate for the prosecution of the said Pirates, preparing the s^d Tryal for the press, supervising of the same, and for his service relating to Capt^g Larrimore & c^a as accessaries, in the whole thirty six pounds.

To Thomas Newton Esq^r of Council for the Queen in the said Tryals, Ten pounds.

To Mr John Valentine Register, for his service, on the Tryal and for transcribing them to be transmitted to her Maj^y's high Court of Admiralty in England, Thirteen pounds.

To Mr Sheriffe Dyer for his service relating to the said prisoners, Five pounds." — *Ibid.*, p. 105.

On the twenty-ninth of December still another claim was allowed and a committee appointed to appraise arms, "sea-stores, &c." taken by the pirates, as follows : —

"A Bill of Charges was presented by William Clarke of Boston Merchant, for Caske, Shifting and Landing the sugar and other things piratically and feloniously obtained by Capt^g Quelch and Company, and for storage of them. And the sum of thirteen pounds was allowed him to be paid out of the proceeds thereof.

Penn Townsend, Andrew Belcher & Samuel Legg Esq^{rs} are named and appointed a Committee to view and estimate the value of certain Great Guns and Appur^ges Pateraroes, Artillery, Sailes and other sea stores & c^a piratically and feloniously taken and Imported by Capt^g John Quelch and Company in the Briganteen Charles, and secured in the hands of William Clarke of Boston Merchant, and for such of them as cannot be shewn forth to inform themselves of the contents and nature of them, and make an estimate accordingly. Also to examin into the dispute and difference between the s^d Clarke and John Colman Merch^t and other the Owners of the s^d Briganteen relating to some of the said Stores, and to make their Report to this Board." — *Ibid.*, p. 129.

On the twenty-second of January, 1701-5, the jailer was granted an allowance, on account, as follows : —

"Ordered. That the sum of Thirty pounds be advanced and paid out of the Treasure imported by Capt^g Quelch and Company convicted of Felony and Piracy, to Daniel Willard Keeper of Her Maj^y's Prison in Boston, towards the charge of feeding and keeping of the said Pirates." — *Ibid.*, p. 142.

Five days later the Commissary-General presented a further claim, which was passed upon, as follows : —

"Jan. 27, 1701-5. An Accompt of Andrew Belcher Esq^r amounting to Five pounds, nine shillings and six pence, for necessary clothing supplied to some of the Pirates in Prison by his Excell^{ty}'s order, was presented and allowed to be paid out of the Treasure imported by the said Pirates." — *Ibid.*, p. 143.

In the autumn of 1705 there was duly packed and forwarded to the imperial treasury the treasure remaining after the above encroachments upon it, and after "the loose and lumbering goods and things belonging to the said pirates or imported by them that are liable to perish or unfit and chargeable to be kept or transported" had been disposed of at public sale. This sale was made by the commissioners of inquiry, in accordance with the proposal of the Governor with the advice and consent of the Council, as early as the twenty-fourth of July, 1701. The steps of this final transaction are thus recorded : —

"Oct. 3, 1705. His Excellency communicated to the Council a Letter from the Right Hon^{ble} the Lord Godolphin, Lord high Treasurer of England, dated from the Treasury Chamber, Whitehall 28th of March 1705 importing her Maj^y's commands, that the Gold, Treasure & c^a imported by Capt^g John Quelch and Company convicted of Felony and Piracy, the charges of seizing and securing of the same, and of the s^d Pirates, and the Process against them, being first deducted, be sent into Engl^d by the first convenience.

* Probably according to the award of Dudley and Newton, to whom his petition had been referred.

† Forty shillings additional was allowed March 2, 1704-5, to Thomas Barnard "for erecting the gibbet . . . to be paid out of their treasure."

And then the Account of the ^{sd} Charges in the particular articles thereof, haveing in part been before approved by the Council, with other demands since made and added, were severally read, and the accounts adjusted, amounting in the whole to the sum of seven hundred twenty six pounds, nineteen shillings and four pence."—*Ibid.*, p. 220.

"Oct. 23, 1705. Tho Coy'n'd, Par and Dust Gold remaining of that imported by Capt^e John Quelch and Company, after payment of the charges containing seven hundred eighty eight ounces three penny weight was weighed by Capt^e Jeremiah Dummer Goldsmith at the Council Board in presence of three of the Commissioners, Capt^e John Huttinton Commander of her Maj^{ty}'s Ship Guernsey, and Mr Simon Lyon Lieutenant of the ^{sd} Ship, made up in five distinct Leather bagges, and sealed in their presence, and the quantity set on each Bagg, and then all put into a Deal box marked No E T. I. fast nailed and corded, and deliver'd to the said Capt^e and Lientenant, who sign'd receipts for the same, containing seven hundred eighty eight ounces and three penny weight to be transported to England in Her Maj^{ty}'s ^{sd} ship, and delivered to the Lord High Treasurer of England for her Majesty's use.

There being eight ounces of Gold taken out before weighing by his Excell^{ty}'s order, which eight ounces was also weighed by the said Capt^e Dummer; and his Excell^{ty} proposed to the Council to pay thereout twenty seven pounds, sixteen shillings and three pence to the Captains of the several Company's of Militia in the Town of Boston for their charge and Expences on Guards and Watches on the Pirates during their Imprisonment. Five pounds to Captain Tuthill for his assistance to secure and bring about the Vessel and goods from Marblehead. Five pounds to Mr Jeremiah Allen the Treasurer's Book-keeper for his care & service about the said Gold and Goods. Three pounds further allowance to Constables Apthorpe and Jesse for their service; and twenty three shillings and nine pence more to the Commissioners, towards making up the loss on the Silver.

The Gold making out Five ounces, seven penny weight and fourteen grains more in weight than by the account at the receipt thereof."—*Ibid.*, p. 228.

The "royal bounty" which was awarded to the Governor as his share of the "pirates' money" was ready for him by the 27th of May, 1707, when he appointed an attorney* in London to receive it.

Thus ended the sequel of one of the clearest cases of judicial murder in our American annals.

The conscientious Sewall, by the first opportunity after the trial, forwarded copies of the News-Letter containing the particulars of the capture, trial and execution of the pirates to one of his English relatives, and to his correspondent, Sir William Ashurst, the good friend of the province,† in London. He seems to have had some misgivings as to the legality of the trial even if he did not anticipate censure from persons high in public station in England for his share in the proceedings. This is a natural inference from the following apology which he made to Ashurst in the letter in which he asks his acceptance of the News-Letter's account:—

"As to the competency of the Witnesses, the Grounds I went upon was the province Law. I declar'd in the Trial, that unless they prov'd the Men and Treasure to be Taken from the Queen's Enemies, they were Pirats and when I gave my voice against Capt. Quelch, I caus'd the Law to be read. The Court did not stand in any absolute Necessity of the testimony of the Approvers that was made use of *ex abundanti*. Moreover the Piracy was begun in our Bay: for the Company Sail'd away contrary to the order of Capt. Plowman and the Owners. Capt. Plowman never sail'd: but was forcibly and piratically carried away."—*Letter-Book*, vol. I., p. 301.

In our present state of enlightenment we can hardly believe that it did not occur to some one at the trial that even by common-law evidence all the accused were not proved to be principals either in the acts of piracy or murder, and that, in such case, it was the duty of the Governor to send the probable accessories to England to be tried by a jury. But the strangest feature of the case is the readiness of the Court to accept the sophistries of Paul Dudley as indisputable in a case wherein the application of his theory jeopardized the lives of more than twenty men and deprived them of their birthright-privilege of a jury without any equivalent safeguard. Yet nothing in the report of the trial, save the argument of Meinzius, shows that the accused were even given the benefit of a doubt either as to the law or the testimony. The silence of Newton upon the points raised by his junior associate, Dudley, is noticeable, and justifies the belief that if he did not suggest to the young man this piece of chicanery, he disingenuously connived at it. In either case his conduct was not only greatly to his discredit but morally criminal.

The indifference of the courts at that period to the sacredness of human life is shocking to the moral sense of mankind at the present day. Though less callous and severe than the judges in Europe, the present case sufficiently shows how obdurate to the finer emotions which should temper and control the administration of justice were the best of our magistrates here, particularly when, in the swift condemnation of Quelch and his associates, it is seen how little either prosecutors or judges had profited by the sad experience in the witchcraft trials twelve years before.

As for the Dudleys, the chance of pecuniary profit which the conviction of the pirates offered was the most efficient spur to their efforts in behalf of the crown, in which they were not to be diverted or delayed by any legal difficulties or any consideration of the rights or possible innocence of the accused.

If the belief of those of their contemporaries who best knew the Dudleys may be relied upon, the fees and emoluments officially awarded them were by no means the extent of their profits out of their dealings with the pirates and their treasure. When Cotton Mather had his quarrel with the Governor, a few years later, he did not hesitate to intimate this

* His "Trusty Friend, John Chamberlayne, of Petty France, Westminster, Esq."—*Mass. Archives*, vol. 48, p. 390.

† He was brother of Sir Henry Ashurst, for several years agent of the province, and was himself chosen to that post, but declined. See *Province Laws*, vol. VII., note to resolve 1694-5, chapter 14.

charge pretty directly in the following passage in his memorial on Dudley's administration: —

"There have been odd *Collusions* with the Pyrates of *Quelch's Company*, of which one Instance is, That there was Extorted the Sum of about Thirty Pounds from some of the Crue, for Liberty to Walk at certain times in the *Prison Yard*; and this Liberty having been Allow'd for Two or Three Days unto them, they were again Confined to their former Wretched Circumstances." — *Mass. Hist. Soc. Coll., fifth series, vol. VI., p. 108**.

Chap. 48. This chapter is from council records, vol. VIII., p. 76. It is preserved in archives, vol. 30, p. 497.

The encounter wherein the scalp was taken for which the allowances were granted in this chapter was a sequel to the fight at Lancaster. See note to chapter 71, *post*.

Of the disastrous retreat of Beancourt's army, and the discomfiture of its leader, an account is given in the note above referred to. It is sufficient only to add here that some small predatory bands left the main body and did damage in the neighborhood of Lancaster for several days after the retreat, and extended their ravages to more remote outlying settlements. Ruinors of these assaults came in from so many places widely separated that the provincial authorities were not easily convinced that so large a force as came down from Canada had really abandoned the field after making only so feeble an impression, and hence for some time were inclined to believe that the depredations of the lingering small parties were indicative of some ulterior hostile movement of great magnitude.

This appears in the following letter from Secretary Addington to Governor Winthrop of Connecticut: —

Honorable Sir, —

"Boston, August 4th 1704.

His Excellency our Governour being absent in business has commanded me to acquaint your Honour that on Munday the 31st of July past, early in the morning, the enemy in a numerous body of three or four hundred (being the same that came from Mont Real) insulted Lancaster, one of our frontiers in Middlesex, furiously assailing six or seven garrisons at once; but finding the inhabitants on their duty and well provided to receive them, and auxiliaries from the neighbouring towns coming in speedily to their assistance, they were obliged in a few hours time to draw off, having made no further impression on the town than the burning of some few deserted houses, killing four of our men; three whereof were slain in a skirmish they had with them on the open field, in which it is concluded the enemy suffered a greater loss, besides what they suffered from the garrisons. They also kill'd some cattle, of which they got only one meal, tooke no booty at all; in the pursuit our soldiers found several plots of blood in their stands. They continue still hovering in those woods and keep the parts alarm'd; its uncertain where they may fall next, or whether they may not divide and come upon several places at once, so that we are necessitated to strengthen all the frontiers and keep out a marching force. His Excellency desires your Honour will please to order Capt^y Avery with the Moheags &c. to Groton, to abide there for some time for scouring of the woods thereabouts. They will probably be better contented there, being not altogether strangers in those parts, and will not be so far from home as before. I am, with all due regard, &c., your Honours most humble & obedient servant,

ISA^h ADDINGTON." — *Win-*

throp Papers, part V., p. 252.

According to the committee of publication of the Winthrop Papers,* the above letter elicited from Daniel Wetherell of New London a reply, of the same date, informing Addington of the temporary absence of the Governor from Hartford and that the members of the council then in New London were empowered to attend to pressing business, and adding, —

"The Pequot & Moheag Indians went out last Thursday from Plainfield, under the command of Capt. Levingsstone, by New Roxbury into the northern woods with a design to come upon y^e enemy's tracks on their return from Lancaster. So y^t Capt. Avery cant march to Groton with them, as y^e Hon^{rs} mentions. We conclude that, upon rec^d of y^r lett^r, the Gov^t & Council at Hartford will ord^r a party of our English, with some of our Indians y^t are now upon the river in your Province, to march directly through the woods to Lancaster and to range in those woods for y^e enemy. Last night we had advice here of mischief done by y^e enemy at Oxford, but conclude you have it more perfectly. The report here is y^t one young woman is kill'd, & 4 children, w^{ch} were gathering hurtle-berries, missing."

The purpose of the call upon Connecticut for Captain Avery's "Moheags" was evidently to strengthen† the garrisons of Groton during the absence of the comparatively

* Part V., pp. 252, 253.

† The following letter to Governor Dudley shows that this was accomplished by a detail of forty-five men by order of Major Converse from the "lower regiment" of Middlesex: —

May it please Your Exc^y.

"Wooba, August 14th, 1704.

I Received Your Exc^ys Order of y^e, 10th, Courrant, I Rec^d. it y^e, same day about 4 in y^e. afternoon, for the detaching 45 Soldiers &c: and to post y^e. in 3 squadrons under y^e. Command of a Sarg^t. to each, viz. Groton, Lancaster & Malburrow. I forthwith sent out my Warrants to all y^e. towns in y^e. Lower Regim^t: the Soldiers were all Impressed y^t. night and y^e. 11th day and began to March, the 12 day I went and posted them according to Order, Glueing the sarg^ts, written Orders to observe till further Orders, directing them to take advice of the Capt^y. of the Respective towns:

At Malburrow, John Benjamin sarg^t. 15 men
Lancaster, Benjamin Wilson sarg^t. 14 men } 45.
Groton, Joseph Child, sarg^t. 16 men }

here is y^e. whole Number Your Excellency sent for, posted according to order. I think there are too many garrisons in every town, if these men be Reported, one at a garrison, and two at another, I shall account my labour lost, and y^e. men next to thrown away, Saving alwayes, what is in Obedience to Your Exc^y. Command there is nothing lost or thrown away.

Exc^y. S^t. I pray for a gracious pardon, and am

Your Very Humble Ready and Obedient Serv^t.

JAS. CONVERSE." — *See-*

large force which, under the lead of Major William Tailer, was to leave the town in pursuit of the enemy, as narrated in the note to chapter 71, *post*. It would appear from Major Whiting's letter of the nineteenth and Governor Dudley's letter of the fourteenth, printed in the note last mentioned, that Tailer left Groton on the tenth.

It is to be inferred from the statements in the following petition that a band of Indians seized the opportunity, which the absence of Tailer's men afforded them for murdering and plundering with impunity, to attack the petitioner and his companions:—

"To his Excellency Joseph Dudley Esq^r Capt General and Governor in Chief in & over her majesties Provinces of the Massachusetts-Bay &ca in New England To the Hon^{ble} her Majesties Council in sd Province and To the Hon^{ble} the House of Representatives now convened in General Assembly within & for said Province October 25th 1704/—

The Humble Petition of John Shepley of Groton

Sheweth

That when Major Taylor was at Groton, having drawn off most of his men from the place, and marched to Col. Tryngs yor Petitioner and Thirteen men more being some reaping & ye rest Warding in a field at Groton afores^d the Indians to the number of about twenty came upon them, when yor Petitioner and the rest betook themselves to their Arms, and three others being along with yor Petitioner, the Indians ran round the field & met them & the sd Indians made several shott, at the English, but amongst the rest one lusty stout Indian with a holland shirt on ran about 8 or 10 Rodd side by side with yor Petitioner & the other 3 men in his Company, about 10 Rodd to the right hand of them when he fired upon us, and as soon as he had fired yor Petitioner fired, being loaded with a slugge, & another of the Company at the same time fired a Bullet at him, whereupon the sd Indian fell down & cry'd out; There were 3 of our first Company kill'd or carryed away, Afterwards ye sd Indian was found dead & a slugge & Bullet in his Body, his scalp being sent up to his Excellency by Major Taylor.

Yor Petitioner therefore humbly prays yor Excellency & Honor^s to take the premisses into yor Consideration and he may be allowed such Encouragement for his service herein as the Law allows, or as to yor Excellency & Honor^s in yor Wisdoms shall seem meet.

And yor Petitioner shall pray &c^s—

JOHN SHEPLEY."—*Mass.*

Archives, vol. 30, p. 496.

This petition was read, first, in the Council, on the twenty-sixth, and sent to the representatives. On the next day the following resolve, which is endorsed on the petition, was passed by both branches and consented to by the Governor:—

"Resolved That the sum of four Pounds be allowed and Paid out of the publick Treasury to the Petitioner and the like Sum of four Pounds to Samuel Butterfield, who this House, is Inform^d did assist in the killing of the Indian mentioned in the Petition, and that no other or further sum be Allowed for the killing of the sd Indian."—*Ibid.*, p. 497.

When the Secretary made up his records he recast this resolve in the form in which it appears in this chapter.

The order in Council * for the payment of these allowances was passed November 20, 1704, and by the province treasurer's account† they appear to have been duly paid.

Butterfield, who shares in the allowance equally with Shepley, was of Chelmsford, and is the same person who was granted an allowance by the resolve of 1705–6, hereafter mentioned, and who, as "sargt byterfelde," appears in the character of a messenger in the note to chapter 55 of the resolves of the same year.

No petition by or for Butterfield has been found in the files and records relating to this chapter; and in the resolve as passed his name is inserted in such a manner as to imply that he received this bounty without formally asking for it. A plausible conjecture of the cause of this omission is that Butterfield, as appears by his declaration in the petition upon which was founded chapter 107 of the resolves of 1705–6, was in captivity at the date of the passage of the present chapter, and he was not released until about a year later.

The scalp not having been taken while the petitioner and his companion were either detached for duty or while in actual service as volunteers, in which cases only they were entitled to the statute bounty, they could obtain this reward in no other way than by a special vote of the Legislature.

Chap. 49. This chapter is from archives, vol. 71, p. 37. It is recorded in council records, vol. VIII., p. 76.

The warrant * for the payment of the debt incurred under chapter 123 of the resolves of 1703–4 was ordered to be issued on the twentieth of November, 1704, and the treasurer's account for this year contains the following item:—

"Paid Jam^s Taylor for Two mortar peeces & 21 Shells bought of him by a

Committee of y^e Gen^l Assembly for y^e use of y^e Province 60 " " "

—*Mass. Archives, vol. 122, p. 233.*

Chap. 50. This chapter is from archives, vol. 119, p. 220. It is recorded in council records, vol. VIII., p. 76.

In his accounts from May 31, 1701, to May 31, 1705, the treasurer makes the following entry:—

"The said Accomptant chargeth himselfe wth the Ballance or Stock remayning of the Trade wth Eastern Indians the Acco^t thereof having been presented & laid before y^e house of Representatives at their session in Octo^r 1704 then Allowed & Improved by y^e General Court or Assembly y^e Ballance being £1000, . . . It was Ordered to be transmitted unto y^e Cred^t of y^e Province Acco^t 1000 " " "

—*Mass. Archives, vol. 122, p. 215.*

* Executive Records of the Council, vol. 4, p. 110.

† *Mass. Archives, vol. 122, p. 232.*

Chap. 51. This chapter is from archives, vol. 71, p. 79. It is recorded in council records, vol. VIII., p. 77.

Wyatt, who, as sergeant, was in command at Black Point,* and built the fort there in 1703, was afterwards commissioned as lieutenant, and, as such, served against the French and Indian enemy from April 10 to June 16, 1704. The time of Lucas's capture is probably indicated by the date of the debenture.

Chap. 52. This chapter is from council records; vol. VIII., p. 78, and archives, vol. 17, p. 120.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esq^r Captain General and Governour in Chief in and over Her Majesties Province of the Massachusetts Bay in New-England, The Hon^{ble} the Council and y^e Representatives of the said Province, in General Court assembled.— the 25th of October. 1704.—

The Petition of Theodosia Clarke, one of the daughters and Co-heires of Thomas Clarke late of Boston Mariner deced^d—

Humbly Sheweth

That your Petitioner and her sister Hannah, wife of John Mandsley of Dorchester, are Entitled as Co-parceners, in right of their said Father, to one third part of a certain Messuage or Tenement situate in Boston abovesaid, parcel of the Estate of their Grandfather Thomas Clarke sometime of Boston shop-keeper deceased, And both of them being desirous to dispose and make sale of their Interest therein, for their better improvement and Advantage, & having now an Opportunity for the same; But your Petitioner being under lawfull age, as she is Informed, to execute a Deed for the alienating thereof, being but nineteen year's old.—

She humbly Prays That she may be enabled by a special Act or Order of this High and Hon^{ble} Court to joine with her said sister in making sale of the premisses and in due manner to Execute a Deed for the Conveyance thereof with the Advice and Approbation of her Mother m^{rs} Judith Clarke.—

And your Petitioner shall ever pray &c^a

THEODOSIA CLARKE."—*Mass.*

Archives, vol. 17, p. 119.

With this petition the following certificate was filed:—

"We Judith Clarke widow, John and Hannah Mandsley, do Certify That the matter set forth in the above Petition is true; And Desire That the Prayer thereof may be granted.

JUDETH CLARKE

JOHN MAUDSLEY

HANNAH MAUDSLEY."—*Ibid.*

On the first of November the order which constitutes this chapter was passed by both branches and consented to by the Governor.

Conveyance under this chapter was made in a deed,† dated December 13, 1704, to Richard Proctor of Boston, tailor, in consideration of eighty pounds "current money of New England . . . As also for divers other good causes and considerations."

The grantors in this deed were "John Mandsley of Dorchester . . . Weaver, & Hannah his Wife Theodosia Clark of Boston . . . Spinster, the Two Daughters and Co-heirs of Thomas Clark late of Boston aforesaid Marriner deceased, and Judith Clark of said Boston Widow Mother of the said Theodosia, and relict of the s^d Thomas Clark deced^d." Having recited that "Thomas Clark late of Boston Shopkeeper Deceased Grandfather of the s^d Hannah & Theodosia in and by a Certain Deed of Gift duly Executed under his hand and Seal bearing date the Twenty Second day of November in the year of Our Lord One thousand Six hundred Seventy and Six & of Record for the Consideration therein mentioned did give grant . . . unto his then Daughter Elizabeth Stevens (since deceased) All that his then part of the Dwelling house and Land thereunto belonging that was then late in the Tenure and occupation of his Son the first abovenamed Thomas Clark, being butted and bounded East by the Street South by the House and Land then of Nathaniel Byfield West by the Land then late of M^{rs} Minot, North partly by Land then of the late John Morse, and partly by Land then of the late Thomas Bumpstead with the privileges and appurtenances thereof To have and to hold the said part of the said Dwelling house with the Lands thereunto belonging and privileges and appur^{ances} thereof unto the said Elizabeth Stevens at and immediately after his decease & to the heirs of her Body Lawfully begotten or to be begotten and to their Heirs forever; And for default of such issue then the premisses beforegiven and granted unto his said Daughter Elizabeth Stevens should he and remain unto y^e proper use and behoof of the Surviving Children of him the said Thomas Clark to be equally divided between them and their heirs forever," etc., and that "the s^d Elizabeth Stevens for many years together after the decease of the s^d Thomas Clark her Father in pursuance and by virtue of the aboves^d grant, enjoyed the afores^d premisses & peaceably dyed Seized thereof without leaving any issue, by means whereof it accordingly came and descended unto her Surviving Brother the first abovenamed Thomas Clark, & her Surviving Sisters Leah the Wife of Thomas Baker (both since lately deced^d and Deborah the Wife of the aforesaid Nathaniel Byfield in equal thirds parts or Shares. Which afores^d part of the aforesaid Nathaniel Byfield in equal thirds belonging Scituate lyng & being near unto the Town house in Boston afores^d is now become One distinct Messuage or Tenement in the present Tenure and Occupation of Thomas Hudson Leveret Barber and now bounded as followeth Viz^t East upon the fore Street South upon the Land of Henry Deering West upon the Land of Richard Procter and North upon Land of Alexander Sperrer One full third part thereof being likewise rightfull come and descended to the s^d Hannah and Theodosia in right of their deced^d

* See resolves, 1703–4, chapter 104, note, and chapter 9, *ante*, and note.

† Suffolk Registry of Deeds, lib. 22, p. 118.

Father the said Thomas Clark," they set forth the resolve which constitutes this chapter, and declare that the other partner "having the pre-emption" had "refused the same," wherefore the said Mandsley and wife, and also the said Theodosia "by virtue of and in Pursuance of the aforesd Courts Order by and with the advice, consent & approbacion of her Mother," join in conveying as aforesaid, to be held as an estate, in fee simple, "All that their One full third part (the whole in three parts to be equally divided) of the above-mentioned Messuage or Tenement and Land thereunto belonging and of all the Housing Edifices buildings & fences standing thereon profits priviledges rights . . . thereunto belonging."

By the courtesy of Arnold A. Rand, Esq., the editor is enabled to locate this estate on the western side of the present Washington Street, on the site of the building now numbered 187.

See resolves, 1705-6, chapter 61, and private acts numbers seventeen and twenty-nine, and the notes to each.

Chap. 53. This chapter is from council records, vol. VIII., p. 78, and archives, vol. 71, p. 73.

Montigny's sanguinary attack on Pascomuck,* May 13, 1704, not only drew out the militia in pursuit of his band in his rapid progress towards Canada, but led to a general strengthening of the garrisons on the western frontiers. On the very day of that massacre Governor Winthrop of Connecticut "despatched Major Whiting with all possible speed and what men could be gotten together" † to coöperate with Colonel Partridge at Hatfield. Having for two days ineffectually pursued the enemy from about seven miles below Northampton to about five miles above Deerfield, marching "near sixty miles in a most hideous, mountainous and swampy country," Whiting, on the sixteenth, reached Hatfield on his return, and wrote thence, on the next day, to Winthrop that in the three towns of Deerfield, Hatfield and Northampton "we have . . . about 200 men; considering the season of the year, think it best dismiss about the halfe of them and waite your Hon^r command for drawing off the rest, Col. Partrig concurring wth me herein. I am ready to conclude upon the tryall we have now made that it is very improbable, if not morally impossible, for your Hon^r to send men out of your Government to do any spoyl upon the enemy that do so frequently make incursions on this county. For our motions have been as expeditious as was rationally to be expected and yet to no advantage, so that it appears a matter of necessitie that a sufficient number of men be posted in these three townes to persue upon any approach of the enemy; w^{ch} is humbly submitted to your Honour's wisdom." ‡

Partridge and Whiting were agreed that the frontiers were to be protected from the enemy by the strength and vigilance of these garrisons rather than by reconnaissances in force, and the latter, in the exercise of the discretion permitted by his orders from Governor Winthrop, remained with the men under his command to reinforce the western garrisons until they should be relieved by new men from Massachusetts or Connecticut.

Before Whiting had turned back from his pursuit of Montigny, reports came from Albany to Hatfield that the enemy were "resting above us on this [Connecticut] river," and these reports were corroborated by the representation of some of the captives who escaped from Montigny's party, that their captors had told them that the enemy "in greater numbers are intending speedy mischiefs on Northampton, Hatfield or Hadley."

The place of rendezvous of the invading forces was reported to be Cowass or Cowsassic, far up the Connecticut, between its junction with Wells River and the mouth of the Passumpsic, within the present township of Barnet, Vermont. It was rumored that the French and Indians were not only planting and resting there, but were fortifying the place.

By command of Governor Dudley § on the receipt of this intelligence Secretary Addington wrote to Winthrop that the Governor hoped "to have two hundred volunteers of this province at Hatfield ready to march thither [*i. e.*, to Cowassic] by the last of this month," and requested Winthrop "to assist in that expedition with some additional forces and some Indians to help them over the waters." ||

It would seem that Dudley himself had notified Winthrop, on the fifteenth, of apprehended imminent danger from the enemy's lodgement at Cowassic, since to such a letter ¶ Winthrop responded with alacrity, and wrote to Dudley "if it shall be concluded to send our men to Cowass," then—besides one hundred and fifty soldiers and such Indians "as may be obtained to be added to them" to scout the frontiers of Connecticut or Massachusetts "as there shall be occasion"—the general assembly had thought fit to order the raising of "50 men in y^e county of Hartford to joyne the forces of the other countyes for that expedition; otherwise they are to be in readiness to releive your county, or any other places, distressed by any sudden assault of the enemy." **

Through the month of May the forces in Hampshire had been considerably increased, chiefly by volunteers from Connecticut. By vote of the assembly of that colony, which convened on the twenty-fourth, four hundred volunteers were ordered to be raised "to repel the common enemy," and of these Whiting was appointed "major and commander-in-chief." But this force, joined with the militia of Hampshire and the scouts previously sent out by Connecticut, was still insufficient, notwithstanding the assistance and encouragement offered by Massachusetts in resolves, chapters 7 and 19, *ante*.

* See note to resolves, 1705-6, chapter 26.

† Two hundred volunteers [Winthrop to Dudley, May 18, 1704: Winthrop Papers, part V., p. 205]. He was joined on the fourteenth, at night, by Captain Colton with about one hundred men.

‡ Winthrop Papers, part V., pp. 204, 205.

§ An extract from the Governor's speech of June 1, 1704, relating to the approach and settlement on the Connecticut River of the Indians, the necessity of dislodging them, and the probability of securing the coöperation of the government of Connecticut, is given in the note to chapter 19, *ante*.

|| Winthrop Papers, part V., p. 202.

¶ This letter, however, has not been found.

** Winthrop Papers, part V., p. 203.

Only a few days, however, before Dudley communicated his change of purpose in regard to sending the two hundred volunteers to Hatfield, as shown in the note to chapter 71, *post*, an event transpired which at once lent a more hopeful aspect to the state of affairs in Hampshire. This was the success of a small party which had been sent to Cowassie to reconnoitre. This project of reconnoitring seems to have been first suggested by the assembly of Connecticut* as early as the nineteenth of May.

To attempt to reconnoitre the enemy's position so far away in the wilderness would at any time have been a very difficult and dangerous undertaking, but now that it was believed that the French and Indians were contemplating a descent in force from Canada, and were most likely to come down the Connecticut valley, the risk seemed so great that but three white men† were found ready to undertake the service. Two of the three returned after having proceeded three days on the journey. The one who continued was Caleb Lyman (named in this chapter), son of John Lyman, one of the early settlers of Northampton, who removed thither from Hartford, Connecticut. His companions, who guided him and shared his perils, were five Mohegan Indians of Major Whiting's command.

Penhallow has preserved for us Lyman's own account of the exploit upon which he based his claim to the reward granted in this chapter, as follows:—

"Some time in the month of May, 1704, there came intelligence from Albany, of a number of enemy Indians up Connecticut river, who had built a fort, and planted corn, at a place called Cowassuck. On the fifth‡ of June following, we set out (by order of authority) from Northampton, and went nine days journey into the wilderness, (through much difficulty, by reason of the enemy's hunting and scouting in the woods, as we perceived by their tracks and firing) and then came across some fresh tracks, which we followed till we came in sight of the abovesaid river: Supposing there might be a number of Indians at hand, we being not far from the place where the fort was said to be built. Here we made a halt, to consult what methods to take; and soon concluded to send out a spy, with green leaves for a cap and vest, to prevent his own discovery, and to find out the enemy. But before our spy was gone out of sight, we saw two Indians, at a considerable distance from us, in a canoe, and so immediately called him: And soon after we heard the firing of a gun up the river. Upon which we concluded to keep close till sunset; and then if we could make any further discovery of the enemy, to attack them, if possible. In the night. And accordingly when the evening came on, we moved towards the river, and soon perceived a smoke, at about half a mile's distance, as we thought, where we afterwards found they had taken up their lodging. But so great was the difficulty, that (though we used our utmost care and diligence in it) we were not able to make the approach till about two o'clock in the morning, when we came within twelve rods of the wigwam where they lay. But here we met with a new difficulty, which we feared would have ruined our design. For the ground was so covered over with dry sticks and brush, for the space of five rods, that we could not pass, without making such a crackling, as we thought would alarm the enemy, and give them time to escape. But while we were contriving to compass our design, God in his good providence so ordered, that a very small cloud arose, which gave a smart clap of thunder, and a sudden shower of rain. And this opportunity we embraced, to run through the thicket; and so came undiscovered within sight of the wigwam; and perceived by their noise, that the enemy were awake. But however, being unwilling to lose any time, we crept on our hands and knees till we were within three or four rods of them. Then we arose, and ran to the side of the wigwam, and fired in upon them: and flinging down our guns, we surrounded them with our clubs and hatchets and knocked down several we met with. But after all our diligence, two of their number made their escape from us: one mortally wounded, and the other not hurt, as we afterwards heard.

When we came to look over the slain, we found seven dead upon the spot: six of whom we scalped, and left the other unscalped. (Our Indians saying, they would give one to the country, since we had each of us one, and so concluded we should be rich enough.) When the action was thus over, we took our scalps and plunder, such as guns, skins, &c. and the enemy's canoes, in which we came down the river about twelve miles by break of day, and then thought it prudence to dismiss and break the canoes, knowing there were some of the enemy betwixt us and home.

And now, all our care being how to make a safe and comfortable return, we first looked over our provision, and found we had not more than enough for one small refreshment: and being above one hundred miles from any English settlement, we were very thoughtful how we should subsist by the way. For having tracked about thirty of the enemy a little before us, we could not hunt for our subsistence for fear of discovery; and so were obliged to eat buds of trees, grass and strawberry leaves, for the space of four or five days, till through the goodness of God, we safely arrived at Northampton, on the 19th or 20th of the aforesaid June. And some time after, (upon our humble petition to the Great and General Court, to consider the service we had done) we received thirty-one pounds reward. And I have only this to observe, that in consequence of this action, the enemy were generally alarmed, and immediately forsook their fort and corn at Cowassuck, and never returned to this day that we could hear of, to renew their settlement in that place." — *Indian Wars*, pp. 31-33.

See, also, Hutchinson's Hist. of Mass., ed. 1767, vol. 2, p. 146.

Tidings of this successful adventure reached Boston on the twenty-first of June and were thus published in the News-Letter:—

"On Wednesday 21. Came an Express to His Excellency from *Hatfield*, with the Intelligence, That one English man and four Indians, being sent out upon discovery of the Enemy, Travelled 7 days up the River of *Connecticut*, and discovered some Indians a

* "The Assembly desires you to put Coll Partridge in mind of sending a scout (if possible) to Cowassie." — *Winthrop Papers*, part V., p. 207. And see note to resolve, 1700-7, chapter 22.

† They were detailed for this duty by Colonel Partridge.

‡ They left Hatfield on the seventh. See note to chapter 54, *post*.

Fishing, so lay still till Night, and watched where they went to their Wigwam, and Surprized them in the Wigwam, kill'd five of the said Indians being men, took a Squaw alive, who informed them, that the Indians were building a Fort at a place about 50 Miles further up, and after further Examination of the said Squaw they kill'd her also, and brought the Six Scalp's with them to *Northampton*: There were two Indians more of the said Company, but they made their escape.

Our People on the Frontiers are in a very good posture to receive the Enemy, if they should come." — *No. 10.*

The petition mentioned in the preamble to this chapter is as follows: —

"To His Excellency the Governour & the Hon^d Council & Representatives Assembled in Boston: the 25th of Oct: 1704.

The Humble Petition of Caleb Limon of Northampton sheweth

first That upon the 5th* of June last the said Caleb Limon was sent by Colonel Patrigg up the Country to make discovery of & doe execution on the enemy, in conjunction with five friend Indians.

2^{ly} That in persnance of that order I fitted out my selfe with Arms, Amunition & provision & travelled with the Rest about an hundred & fifty miles into the wilderness, to the great hazzard of life & health, enduring a great deal of Hardship, & was absent in this journey a full fortnight.

3^{ly} That God was pleased so far to succeed our undertaking that we slew seven of the enemy & brought in six of their scalps, to the great encouragement of the souldiers & the people of these plantations.

The said Caleb Limon does therefore Humbly request this Court in Consideration of the difficulty & successe of this service, to bestow a reward upon him, According to their wonted bounty, so that he & others may be encouraged in time to come, to run utmost adventures for the sake of their Country.

& your Petitioner shall pray &c: and so I rest yours to sarne

CALEB LIMON." — *Mass.*

Archives, vol. 71, p. 72.

This petition was read in the House on the twenty-seventh. On the first of November the resolve which constitutes this chapter was passed and sent to the Council for concurrence, where it was immediately concurred in, and consented to by the Governor.

The order in Council† for the payment of the allowance was passed November 20, 1704, and the province treasurer's account‡ shows that it was duly paid.

Why the petitioner and his companions failed to receive the bounty of one hundred pounds for each scalp brought in by them will be explained in the note to the next chapter.

Chap. 54. This chapter is from archives, vol. 30, p. 498. It is recorded in council records, vol. VIII., p. 79.

For particulars of the service rewarded by virtue of this chapter see the note to the preceding chapter in addition to what follows here.

In the following extract from a letter to Governor Winthrop, Major Whiting represents the services of the Indians in Lyman's party as more important than they appear to be in Lyman's narrative: —

"June 20th [1704].

SE, — On Wensday the 7th instant our scout, consisting of 3 English and 5 Indians, departed Hatfield about nine in the morning with orders to go to Quoasick if possible, to bring us certaine intelligence whether there be a fort or not, as also to make wt discovery they could of the enemys numbers and motion. (Two of the English men belonging to the s^d scout left them the 3^d day after they went hence, one of them being disabled by a hurt received in his leg, so that one English man and 5 Indians prosecuted the designe.) Yesterday, as I advised your Honor, tho very briefly, they returned hither wth six of the enemys scalps and give this acco^t of their proceedings, vizt that as they travel'd up the river they saw signes where the enemy had been, but on Wensday the 14th currant they discovered three tracks new past along, w^{ch} they follow'd to the great river (about 150 miles above this place), they being to the eastward when they first saw them. Some time after, they spi'd a canoe wth an Indian and a boy a fishing on the west side the river. They continued there till night, concluding there was a wigwom not farr off, w^{ch} accordingly prov'd true. In the night they mov'd downe a hill to the river, or near it, wth a great care and secrecie. As they came near the wigwom, they heard a child cry, which did greatly facilitate their enterprize. Having posted themselves conveniently for the designe, waited some time untill they had concluded what mesures to take. The Indian Cap^t (Quioheagne) gave the signall: they ran violently on the wigwom, discharging some of their guns, then entring with their hatchetts soon dispatch'd four men, 1 lad of 14, & 1 child of about 2 year old, and took one squaw captive, who, after some short examination, they kill'd and scalp'd; the whole number in the house being nine, two whereof made their escape, being favored by the night, tho they conclude one of them was mortallie wounded wth a hatchett in the back. They soon quitted the place, being in the enemys country and the neighbourhood doubtless alarm'd; they took three guns wth some other plunder and imbark'd in two canoes, came downe the river about twelve mile, by w^{ch} time the day broke, then landing agen on the east side, destroyd their canoes and traue'l'd away south east, comeing near to Manadnuck Hill, took a circumference, came upon the great river agen a little above Northfield on the 10th instant, and came as above in hither yesterday. I can gaine no certainty from the examination of that squaw, but I think thus much: that they are building a fort at Quoasick, that there are some Indians now residing there, especially women and children, the men being gon, some to Cannada to sell their captives,

* See foot-note †, ante.

† Executive Records of the Council, vol. 4, p. 110.

‡ Mass. Archives, vol. 122, p. 232.

some coming downe this way to fish, or what else she knew not. We know not what to believe about it. The Indians are much rejoyc'd at their success, and their expectations greatly heightned wth 100^b a scalp. Great prudence must be used in rewarding and encouraging them; others are willing to go upon the like adventure. We are ready to conclude its a matter of highest importance to keep out small parties at present, and, as Providence shall open our way, march wth a united force. To day we dispatch'd letters to Govenor Dudley, acquainting him wth the state of affairs here. Sr, we would manifest our thankfulness to Almighty God for this smile on our designs, and pray that all our undertakings for the future of this nature may be alike successfull. The Providence seems to carry the greater fauor in it since we are confidently perswaded that these are a part of those Indians that did the last mischief at this towne, and that from the household goods they had in the wigwag. This also will furnish your Honour wth suitable presents for the Five Nations, if in your wisdom it be thought best to engage them, vizt the scalps each nation one, w^{ch} Col. Schuyler sent me word were acceptable and oblidging. . . .

WILL: WHITING." — *Win-*

throp Papers, part V., pp. 226-228.

The Indians' expectation of one hundred pounds per scalp was evidently founded upon a misapprehension of a provision in the resolve of 1703-4, chapter 100, for encouraging volunteers serving without pay, who, in "such companies . . . as may amount to a proper number," should, under officers commissioned by the governor of Massachusetts, fit themselves out "at their own charge," to range the coast and woods of Massachusetts, New Hampshire and Maine and "insult the eastern coast of Nova Scotia and Port Royal." It is clear that if the successful scouting party had complied with any of these conditions they had not with all or most of them, and, therefore, that no officer of the province was authorized to certify their claim to the large bounty offered to encourage enlistments in aid of Colonel Church's intended expedition to the eastward.

Neither does the case seem to have come under the act of 1703-4, chapter 6, which was in force at the time of Lyman's expedition, and which by the resolve last referred to had been extended to the thirtieth of November. By the second section of that act all persons voluntarily enlisting "in the service," under pay, were entitled to a bounty of ten pounds per head, to be divided among the members of the company, "for every Indian by them killed;" and by section 3, all persons voluntarily, and "at their own charge and without pay," going forth in greater or lesser parties in pursuit of the enemy "with the allowance and direction" of the Governor were entitled each to his share of twenty pounds per head for every Indian they should kill or take alive.

It was so evident that persons belonging to the forces of Connecticut, and not organized, commissioned, or allowed of, by the commander-in-chief of Massachusetts, had no valid claim under this statute, that the possible assertion of such a claim was not even hinted at by any of the persons interested, unless by Major Whiting in his letter to Winthrop, dated Northampton, June 28, 1704, where, as shown by the following extract, he expresses the opinion that "some scalp money is due" :—

"Sr, I find it difficult to satisfie the Indians concerning the scalps; can hear nothing from Boston about it, altho hane wrote Govenor Dudley concerning that matter Doubtless there is some scalp mony due to them; have formerly signified this to your Honour. Four of the Moheages are returning home; ours are yet well content." — *Ibid.*, pp. 233, 234.

It has not been discovered whether Colonel Partridge, for whose reimbursement the resolve which constitutes this chapter was passed, paid the ten pounds as a gratuity, trusting to be repaid by an executive order or a vote of the General Court, or advanced the same in part satisfaction of what he deemed a possibly valid claim for a bounty under some existing law.

Whiting thought it a politic measure, if not an anticipation of the certain action of Massachusetts under some supposed existing law, to add forty pounds to what Partridge had contributed. He was reimbursed this amount, as a favor but not as a debt, by resolves, 1706-7, chapter 22. Just when this payment was made to the Indians by Whiting does not appear. It may have been made as late as the spring or summer of 1705 to propitiate them for the injustice which they believed they had suffered in being denied the one hundred pounds bounty which, as appears by the following extract from a letter written by Winthrop to Dudley, dated May 30, 1705, had indisposed them to render further service to the province :—

"And upon my returne hither I sent an officer to Owaneeco to informe him of your desire of a party of his men, and of the order of the Gen^l Assembly, but he would neyther come to me nor send any of his men, pretending it was a busy tyme and that your Province owes him 100^b for scalps the last yeare, & when that was paid he would let his men goe upon the designe." — *Ibid.*, pp. 294, 295.

The order in Council* for the payment of the allowance granted in this chapter was passed November 20, 1701, and the province treasurer's account† shows that it was duly paid.

Chap. 55. This chapter is from archives, vol. 11, p. 192. It is recorded in council records, vol. VIII., p. 78.

By the following entry in the executive records of the council it appears that Benjamin Chout was the person selected by the Governor and Council to fill the vacancy caused by Williams's absence. Chout, who it would seem had not been ordained, was appointed chaplain, probably by military commission. He was the youngest son of John, the first of that name in Ipswich. He was born in 1680, graduated at Harvard College in the class

* Executive Records of the Council, vol. 4, p. 110.

† Mass. Archives, vol. 122, p. 223.

of 1703, and after leaving Deerfield was for some time a preacher at Kingston, New Hampshire.

"June 21, 1705. Pursuant to a Resolve passed by the General Assembly at their Session begun the twenty fifth of October 1704, that the sum of Twenty pounds be allowed and paid out of the Publick Treasury for the support of a Chaplain to the Town and Garrison at Deerfield, by the space of six Months, and it being certified that Mr Benjamin Chote has Officiated as Chaplain there, during the sd six Months, ending the twentieth of May last.

Advised and Consented That a Warrant be issued to the Treasurer to pay the above sum of Twenty pounds to the said Mr Chote accordingly."—*Vol. 4, p. 182.*

The province treasurer's account* from May 31, 1705, to May 31, 1706, shows that this amount was duly paid.

After the capture of the Rev. John Williams, as mentioned in the note to chapter 6, *ante*, no provision for stated preaching at Deerfield appears to have been made until the passage of this chapter. Meanwhile the poverty of the inhabitants was such that it appeared to the committees of war for Connecticut that the billeting, or otherwise subsisting, the men sent by them to Deerfield was too great a burden upon the town, and, believing that the province should make special provision for maintaining a minister in the town besides garrisoning it and still further relieving the inhabitants, they concluded to withdraw their contingent there under Captain Newberry. This appears in the following extract from a letter to Governor Winthrop signed by Caleb Stanly, senior, for the committees:—

"HARTFORD, July 11^d 1704.

"... Furder we offer to yor Honrs consideration that Capt. Newberrys company may be speedily removed from Deerfield, being just out off order by reason offe being so long without a minister and the poore distressed people with him; and other inconveniences offe two captains in that poore little place that oecasions some divisions amongst them, and itts thought most expediant that onely Capt. Welles be cap^t in that place, & a Lieu^t with the rest of the forces sent up to garrison there."—*Winthrop Papers, part V., p. 240.*

Owing to the delay of the authorities at Boston, however, the Connecticut soldiers were not relieved for some weeks, possibly not until September.

See resolves, 1705-6, chapter 68, and 1706-7, chapter 44.

Chap. 56. This chapter is from council records, vol. VIII., p. 79, and archives, vol. 17, p. 128.

The order which constitutes this chapter is another illustration of the prevalence in the province (against the opinion of the best lawyers†) of the rule that estates devised in tail were not partible and could neither be barred nor alienated, in deed or in law, without authority from the Legislature.

The devise under which the petitioners claimed was in the following words:—

"Item my will is that if my Son Isaac Adams be yet alive & Shall retorne againe to Boston that he Shall have & Injoy after my s^d Wifes Decease all that my house & Land in Boston which I bought of John Can with the profits priviledges & appurtenances unto him his heires & assigns for ever . . . Item my will is that in case my s^d Sone Isaac retorne not to Boston againe then I giue & bequeath the s^d house & Land that I bought of John Can as afores^d unto my grandchilde Sarah Adams Daughter of my Sone David Adams & to the heires of her body Lawfully Begotten and for default of Such Issue then I giue the s^d house & Land unto my grandchild David Adams the Sone of Danide adams & to his heires & assigns for ever: Item my will is that in case my s^d Sone Isaac doe Returne to Boston againe that my foure Eldest Sons pay or cause to bee paid unto my s^d Grandchild Sarah the Summe of ten Pounds apeece in money when She Shall attaine the age of eightene yeares or the day of marriage."‡

The petition mentioned in the preamble to this chapter (with the assent of the next remainder-man subscribed) is as follows:—

"To his Excelleney Joseph Dndley Esq; Cap^t General and Governor in Chief in and over her Maj^{ties} Provinces of the Massachusetts bay &c in New England To the Hon^{ble} her Maj^{ties} Council and To the Hon^{ble} House of Representatives now in General Assembly convened in and for the Province afores^d. October ult: 1704—

The Humble Petition of Elihu Wardal and Sarah his Wife.

Sheweth

That Whereas Nathanael Adams late of Boston Turner deced in and by his last Will and Testament bearing date the 14th day of July Anno Domi 1675 (among other things) did give and devise unto yor Petitioner Sarah his Grandchild a certain House and Land situate lying & being in Boston afores^d at the northerly end of s^d Boston in the High-street leading to Winnisinet-flerry. and to the heirs of her body lawfully begotten and for default of such Issue then he gives the premises to another of his Grandchildren (viz^t—David Adams and to his heirs for Ever. which sd David Adams is since deceased and left no Issue.

Now so it is (may it please this great and General Assembly) That yor Petitioner Sarah hath already one Child of her Body lawfully begotten and is in hopes of having many more, whereby a legal Title to the said House and Land is absolutely vested in yor Peti-

* Mass. Archives, vol. 122, p. 253.

† See note to private act, number seventeen, vol. VI., p. 174. The Council that passed the resolution of 1723, referred to in that note, comprised the full bench of the Superior Court of Judicature.

‡ Extract from the will of Nathaniel Adams, "Dishturnor," dated the fourteenth of July, and admitted to probate November 1, 1675, recorded in Suffolk Probate Records, lib. 6, p. 100. He appoints his wife Sarah executrix.

tioners by Vertue of the afores^d Will. and the premisses being very ruinous and out of repair, your Petitioners are by no means able to repair the same without putting themselves to great straits and inconveniences, and they being now offer'd a good price for the same, and such as will enable them to purchase something that may be of more advantage to themselves and Children. And y^r Petitioner Sarahs flather David Adams, (the flather of David afores^d deceased to whom the premisses were given in remainder) being aged and without any other Issue than y^r Petitioner Sarah, or probability of having any is very willing to consent to the Sale of the afores^d House and Land :

Y^r Petitioners therefore humbly pray the favour of this great and General Assembly to allow & enable them to make Sale of the premisses accordingly —

And y^r Petitioners shall ever pray &c^a

ELIHU WARDALL
SARAH WARDALL.

The abovenamed David Adams in Testimony of his consent to the Sale as above prayd for, hath hereunto sett his hand

DAVID ADAMS

Attest. PAUL DUDLEY *Just. pacis.*
1^o NOV^r 1704." — *Mass.*

Archives, vol. 17, p. 128.

The above petition was read in Council on the day of its date. On the first of November the order thereon was passed by both branches and consented to by the Governor.

The sale authorized by this chapter was made to Thomas Kellum of Boston, glazier, for ninety pounds "curr^t Silver money of New England," and the deed * thereof is dated November 28, 1704. The estate is described as follows:—

"All that their Messuage or Tenement Seituate lying and being at the Northerly end of Boston afores^d being the house & Land abovementioned butted and bonnded Easterly by the land formerly of the widow Hett now of Benjamin Fitch Sontherly by the Town Street, westerly by the Land of Lawrence White & Northerly by the Land of Daniel Turell measuring in breadth at the Southerly end Twenty two foot, and in breadth at the rear or Northerly end Thirty five foot Together with all profits priviledges Easments," etc.

The editor is indebted to Mr. Henry H. Edes for the following identification of the site of this estate: It is on the westerly side of what was formerly North Street but is now Hanover Street, between Charter Street and Lynn (now Commercial) Street. In all probability it is now numbered 426 and 428 Hanover Street, and makes the northerly corner of Fountain Place.

Sarah Adams, the widow, died testate, and her will, dated October 16, 1684, and admitted to probate May 14, 1685, contained this clause:—

"The Reasons why I give nothing to my Son David and Jonathan now, they haveing had of me already Sixty pounds in money each of them besides sundry other things which I shall not particularize." — *Suffolk Probate Records, lib. 6, p. 508.*

Immediately following the record of Mrs. Adams's will is the record of an agreement among her children, acknowledged before Isaac Addington on the second of July. It is given below:—

"Whereas there hath been some difference between us the Subscribers about the Estate left by our Father Nathaniel Adams Dece^d and our mother Sarah Adams. Wee do hereby in order to the continuance of Brotherly love agree as followeth. *Impr^s* That whereas wee each of us have enjoyed houses and Lands as they were devised to us by the last will of our Father aboves^d hitherto; So that each of us shall have hold & enjoy the same wee our heires Exec^{rs} Adm^{rs} respectively for ever — 2^{ly}. That what Land was left by our Father undisposed of shalbe equally divided between us according to each of our conveniency. — 3^{ly}. That whereas our father hath devised in his will ten pounds to Mary Timewell the same shalbe paid out of the Estate left by our mother — 4^{ly}. That out of the said movable Estate there shalbe four pounds paid to Nathaniel Adams the eldest Son — Lastly. That the remaining movable Estate left by our mother Sarah Adams shalbe equally divided amongst us all viz. Nathaniel Adams, David Adams, Abraham Adams & Jonathan Adams. And in Witness that this is our final issue of all our differences about the Estate aboves^d wee have herunto Set our hands & Seales this Second of July One thousand Six hundred Eighty five.

NATHANIEL ADAMS & a Seale
DAVID ADAMS & a Seale
ABRAHAM ADAMS & a Seale.
JONATHAN ADAMS & a Seale." — *Ibid.*

Chap. 57. This chapter is from council records, vol. VIII., p. 80, and archives, vol. 40, p. 803.

The action, which by this chapter was ordered to be tried anew, was brought upon a writ of *capias* and attachment, in the usual form, dated February 23, 1703-4, and returnable to the Inferior Court of Common Pleas for Essex County, at Ipswich, on the last Tuesday of March, 1704. The attachment was for twenty-six pounds, and the *ad damnum* was fixed at fourteen pounds. The "debt" declared on was "for Neglecting & refusing to pay unto y^e plaintiffs y^e summe of thirteen pounds fifteen shillings & 6^d being so much owing & Justly due to y^e plaintiffs on ballance of account of worke made vp & Settled vnder y^e said Menzies hand y^e 22^d Day of February 1703/4, which tho' thereto required yet he neglects to pay y^e Same/ To the damage," &c.

The writ was served by attaching the body of the defendant, who gave bond, with one surety, in the sum of twenty-six pounds, in the usual form.

* Recorded in Suffolk Registry of Deeds, lib. 22, p. 89.

† Essex Court of Common Pleas: Files.

At the trial the plaintiffs put in evidence their written account, signed by the defendant, as follows:—

“Mr Jeames Menses debter to us Nathanel Silsby and Joseph Neale in y ^e		li	s	d
year, 1702				
to Six, & a halves days work both of us at your honours			02	12: 00
to Eight Larg Arcertrine windo frames and Casments to them			09	12: 00
to Nathaniel Silsby in pertickerler account.				
to, 2. days at hewing of y ^e postes			00	07: 00
to a pien Chest to your man by your order			00	06: 06
to Joseph Neale per ^t				
to posts for your fense of me			00	08: 00
Mr James Menzes debtr farther to the Jencrall account as above between us				
both to Casements p ^r agreement			02	—00—00
				<hr/>
			15	—05—06
paid in part of the above acco ^t by paper money			01	—10—00
				<hr/>
Due to ballance			13	—15—06

Salem Feby 22^d
1703/4

Per me JA MEINZIES.” — *Es-*

sex Court of Common Pleas: Files.

Although, since there was no positive statute or rule of practice to the contrary, it might be supposed that any bench of sensible men would have deemed the plaintiffs’ declaration and proof an *insimul computassent*, made out with sufficient clearness, the defendant, without pleading in abatement, or filing a written motion to dismiss, succeeded in convincing the Court that it was their duty to abate the writ and award him costs. The plaintiffs were accordingly nonsuited, whereupon they appealed to the Superior Court of Judicature next to be holden in the same place on the third Tuesday of May.

The following are the plaintiffs’ reasons of appeal:—

“Essex ss To the Hon^{ble} Sup^r Court of Judicature holden at Ipswich y^e third Tuesday of may anno Dom 1704

Nathaniel Silsby & Joseph Neale Appell^{ts} y^r Reasons of appeale from a Judgment at an Inferiour Court of pleas holden at Ipswich on y^e Last Tuesday of march being y^e 28 1704 at which Court your Appell^{ts} was pl^{ts} & James Menzies Defend^t which said Courts Judgm^t was y^t y^e writt Is abated & pl^{ts} Nonsuited & y^t they pay Cause * to y^e Def^t wch Judgm^t as we Conceive was wrong & ought to be reversed for these Reasons following—

Imp^r That our writt was Laid for Ballance of an account made up with y^e Def^t and written with his own hand with promise made of Payment within a very short time & as we Conceive our writt was Legally Laid according to y^e methods & practise of this Country to sue upon Ballance of accounts and therefore our action ought to have proceeded to Tryall

2 That for all pleas In Barr or Abatem^t shall be made originally in y^e Inferiour Court where The suit was first Brought forward and Not afterward and there being then noe pleas made & Entered your Appell^{ts} have the Less to answer to: so hoping your Honours will see Just Cause to Reverse y^e former Judgm^t and give us our Just Cost as y^e Law directs so we subscribe yor honours Humble serv^{ts}

NATHANIEL SILSBY
JEREMIAH NEALE Attorney to
Joseph Neale

Recd on File May 24 1704 Per STEPH SEWALL Cler.” — *Ibid.*

The judgment of the Court on this appeal was entered as of the sixteenth of May, as follows:—

“And now Upon hearing the Pleas of both Parties Its Considered by the Court & they Adjudge the Writ to be good & well brought & reverse the Judgm^t of the Inferiour Court & award to the Appellants their full Costs of both Courts.” — *Records of the Superior Court of Judicature, 1700-1714, fol. 127.*

The costs of both courts awarded to the plaintiffs, amounting to five pounds six shillings, were duly certified to by acting Chief Justice Sewall.

The case, being now remanded to the Common Pleas, came up for trial at the June term in Salem, when, by the consent of both the plaintiffs and the defendant, it was continued to the next term, — thirty shillings additional costs being allowed to the plaintiffs.

The next term was held at Newbury on the twenty-sixth of September, but the case was not then tried, for, previous to the sitting, Stephen Sewall, the clerk of the Court, received from the defendant the following letter:—

Majr Stephen Sewall

“Salem 21st Sept^r 1704

S^r Pray pleas to move to the Inferiour Court at Newbury on the 26th of September instant for Continuance of an action Commenced ag^t me by Nath^l Silsby & Joseph Neale untill the next Inferiour Court at Salem in November next, The pl^{ts} having promised me to Consent to the same. Wherefor this shall be your warrant & will much oblige

Your assured friend to Serve you

JA MEINZIES.” — *Es-*

sex Court of Common Pleas: Files.

Notwithstanding the previous continuance of the case by order of the Court, and the agreement of the parties to a still further continuance, which this letter of Meinziez discloses, the Court again dismissed the case upon their own motion, it would seem, by the following certificate:—

"These may Certifie whom it doth or may Concern That att Her Majties Inferiour Court of pleas holden at Newbury on y^e last Tuesday of September *anno Dom.* 1704 in y^e action wherein Nathaniel Silsby & Joseph Neale were plaintiffs and James Menzies Defendant being an action continued. The Justices of said Court were of opinion that y^e Said Cause was barr'd by Law for that it was not Tryed at y^e very next Immediate court after it was sent back from y^e Superiour Court for Tryall & That no appeale might be Granted in Such Case & so gaue Judgment * accordingly.

Certified at y^e Instance & request of Joseph Neale one of y^e plaintiffs

Salem October 23^d 1704

STEPHEN SEWALL *Clerk.*" — *Mass.*

Archives, vol. 40, p. 810.

The grounds of this extraordinary proceeding are shown in the judgment by the phrase "y^e plaintiffs having Lapst thier time for tryall,†" — a conclusion evidently founded upon the assumption that the requirement of the act‡ relating to appeals from judgments in bar or abatement should be literally complied with, and that it was therefore imperative upon the Inferior Court to try this case upon its merits "at the next session," after it was remanded, and "without any delay," — thus converting what was intended as a shield to protect the plaintiffs' rights into a sword to defeat them altogether.

The plaintiffs tendered their appeal from this judgment, which being rejected, they had recourse to the Legislature for the justice denied them by the proper tribunal in the following petition, which, with copies of the Court's proceedings annexed, was read in the House, October 25, 1704: —

"To His Excellency Joseph Dudley Esq; Cap^t Generall & Governour in Chief in and Over Her Majties Province of the Massathussets Bay in New England &c^a and to the Honourable Her Majties Council; and House of Representatives Assembled In Great & Generall Court at Boston by Prorogation Octobr 25th 1704

The Petition of Nathaniel Silsby & Joseph Neale both of Salem

Humbly Sheweth

That Whereas your petitioners did at the Inferiour Court of Common pleas Holden at Ipswich for ye county of Essex March 28th last past Commence an action of debt against James Menzes of Salem Genhman as P writt bearing date the 23^d day of february last past, at which Court your petitioners were non suited, as P Judgment the Said 28 march appears, a Copie whereof being annexed hereunto, from which Judgment your Petitioners appealed to the next Superiour Court held in Said County, at Which court your petitioners recovered, a reuersion of the former Judgment and Costs of Courts as by the s^d courts Judgment the 16th may last appears, a Copie whereof being annexed hereunto and then pursuant to the law of this province the case sent back to the next Inferiour court in s^d county, at which court your petitioners pursuant to the law of this province made a new Entry in order for tryall at said court held at Salem June. 27th last past at wch court the s^d action was called, & by the said court the s^d action was continued by consent of both plaintiffs & Defend^t to the next Inferiour Court to be holden in s^d county, wch court being held at Newberry September the 26th last past where your petitioners appeared, to prosecute their said action, wch being called, the court entred up a Judgment in these words following, viz; Nath^l Silsby & Joseph Neale Plaintiffs *Versuss* James Menzies defendt being an action continued from June court last, the plaintiffs haueing lapst thier time for tryall; this case is dismist, as appears P the s^d courts Judgment a copie whereof is annexed hereunto; and also a certificate under the hand of the Clerke of s^d court, from wch Judgment your petitioners Craned an appeale, wch was denyed by s^d court; wch proceedings of s^d court your petitioners Humbly conceiueeth is contrary to the law of this province in such case made & provided and very prejudiciall & Greatly to the damage of Her Majties subjects your petitioners Wherefore your petitioners Humbly prays that this High & Honourable court would be pleased to relieue the Injured, by determining that the said cause shall be tryed at the next Inferiour court in s^d county in order for the Recovery of their Just dues

And Your Petitioners; Shall as in Duty bound Ener pray &c^a

NATHANIEL SILSBEE

JOSEPH NEALE." — *Ibid.*, p. 802.

On the thirty-first the order which constitutes this chapter was passed in the House and sent up to the Council, for concurrence. On the third of November it was concurred in, and consented to by the Governor.

In compliance with this order of the General Court a summons was duly issued and served upon the defendant. The following is a copy of the summons and of the return of service thereon: —

"Essex ss Anne by y^e Grace of God of England Scotland France & Ireland Queen defendr of y^e faith

(Seal.) To y^e Sheriffe of Our Countey of Essex his under Sheriffe or deputy Greeting

Wee Command yon to Summon James Menzies of Salem within y^e Countey of Essex Gent; if he may be found in your precinct that he appear before Our Justices of our Inferiour Court of pleas to be holden at Salem within & for our Said Countey of Essex on y^e last Tuesday of This Instant November There to Answer to Nathaniel Silsby & Joseph Neale Both of Salem aforesaid in a plea of Debt being y^e Cause which was Continued from y^e last Inferiour Court holden at Salem in June last past vnto y^e Next Inferiour Court then to be holden at Newbury on y^e last Tuesday in September 1704 at which Court y^e said Cause was dismist & Since that time vpon applicacon made to y^e Great & Generall Court Setting at Boston on y^e 25th of October 1704 by a Special act of the said Court y^e said Cause is Revined & Continued & ordered to be Tryed at Said Court & y^e

* The costs taxed for the plaintiff at this term were one pound seventeen shillings.

† Essex Court of Common Pleas: Records.

‡ Province Laws, 1703-4, chapter 13, § 1.

Said Menzies ^{vs} Defendant to Conform thereto accordingly, & haue von there this writ with your doing therein Witnis Nathaniel Saltonstall Esq^r at Salem this 14. Day of Nouem- ber in y^e third yeare of Our Reign Annoq; Dom. 1704

STEPHEN SEWALL Cler.—

Essex ss This Sommons was Read to the wthin Mentioned m^r James Menzies and he was Sommoned to appear accordingly and a Copy of this sommons was left wth him according to law this 14th day of November Anno Dom^o 1704

¶ D DAIVSON. Sheriffe."—Es-

sex Court of Common Pleas: Files.

The cause came on for trial as directed in the order of the General Court, and the plain- tiffs recovered judgment; from which the defendant appealed, as appears by the following copy of the record:—

"Nathan^l Silsby & Joseph Neale plant^s Ver James Menzies Defend^t being an action dismist at Last Newbury Court & Revived by a special act of y^e Generall Court to be heard & tryed at this Court.— The Cause being heard & Comitted to y^e Jury who returned thier Verdict as followeth— The Jury find for y^e plantiffes - - 13:15, -6 & Costs— Bill of Cost Taxt . . . 7-7-6 which being Considered y^e Courts Judgment is that the plantiffe recover of y^e Defendants—13-15, 6 & Costs 7^u 7^u 6—The Defendant appeals James Menzies principle Samuel Wakefield & John Woods sureties Recognized In 40th Bond to y^e parties Concerned— The Condition whereof is that the said James Menzies shall prose- cute this appeale with Effect at y^e next Superiour Court to be holden in this County."— *Ibid.*

Meanwhile execution had been issued by the Superior Court for the five pounds six shillings costs awarded at the May term. This writ bears date October twentieth, and upon it William Gedney made two returns under date of November fourteenth, averring, in the former, that he had levied upon fifty shillings of the defendant's money, but could "finde no other estate att present," and in the latter, that he had offered this fifty shillings to Joseph Neale, one of the plaintiffs, who had refused to receive it, "notwithstanding he said he had power from Nath^l Silsby to Receive the Same: but said mony fifty shillings Is In my hands: and am Ready to pay on Demand."*

The defendant's appeal was duly entered in the Superior Court at the May term, 1705. His reasons, which were seasonably filed on the thirtieth of April, were as follows:—

"Essex ss: To the hon^{ble} Mr Maj^rs Justices of the Superiour Court of Judicature to be holden at Ipswich for the County of Essex on the third Tuesday of May 1705.

James Meinziez Appl^t

vers:

Nath^l Silsby & Joseph Neale Appellees } The Appell^{ts} Reasons of Appeal from a Judgment obtained agt him by the sd Na- thanael Silsby & Joseph Neale at an Inferi- our Court of Common pleas holden att Salem for the County aforesd on the last Tuesday in November last past when & where the sd Nath^l Silsby & Joseph Neale were pl^s & the sd James Meinziez deft in a plea of debt being an action dismist at last Newberry Court & Revived by a special act of the Gen^l Court; to be heard & tryed at the sd Infer Court at Salem in November last At which Court Judgment was Rendred for the pl^s thirteen ponneds fifeten shillings & six pence & Costs which Judgm^t The Appl^t saith is wrong & Erroni- ous & ought to be Reversed for the Reasons following:

1st The sd Judgment ought to be Reversed becaus the same was given for the pl^s which by law aught to have been rendred for the Deft

2 By the Acco^t sued for, It do's not in the least Appear obligatory upon the deft becaus the same was only signed conditionally by him, that upon the pl^s delivery of sd Window frames & Casements & putting up & fitting the same for the windons he should pay the snmm sned for, provided also the sd Acco^t should Agree with a former Coppy given in by them, And the pl^s do's not in the least Avrr in their writt that the sd frames & Casements were either delivered or ever tendered by them to the pl^t but on the Contrary do still detain the same in their own hands, tho often demanded from them by the Appell^t & his Attorney & payment offered upon delivery therof:

3 The Court hath not only taxed three bills of Costs In which there are sundry snmms & Costs allowed which by law ought not; nor is Cnstumary, to be allowed in such Case, but also have allowed & Taxed a bill of Costs which was at the Gen^l Court & so no way can be taxed by any Infer Court;

All which, with the further pleas to be offered upon the Tryall Being fully Considered by the hon^l Court & Gen^t of the Jury The Appell^t doubts not but they will find Just grounds to revers the former Judgm^t & allow the Appell^t his Just Costs & dammage;

JA MEINZIES Appell^t."—Suf-

folk Court Files.

To the above reasons the plaintiffs replied as follows:—

"Nath^l Silsby & Joseph Neale thier answer to James Menzies his Reason^s of appeal To the Hon^{ble} Superiour Court of Judicature holden at Ipswich may 15 1705//

1st To the first the Judgment was Right & according to Law & therefore ought to be Confirmed—

2nd To the Second Notwithstanding y^e appell^{ts} rash assertion of severall Conditions & C There was no manner of Condition but a Ballance positively settled for worke done & y^e appl^{ts} hand to it who promised y^e Defendants payment from time to time that att the Return of this & that & the other progress to Rhode Island & Elce where he would Cer- tainly pay them yet Baffl^d them & failed of his word & now by Law still withholds y^e Just debt & hath forced them to six Courts for the obtaining thier honest Due to the Great Ex- pence of time & money & would delay them for Ever if he Could In all probability & as to the Delivery of the Casements he Informed the Defend^{ts} that he had thoughts of Carry- ing them Eastward for another house there & ordered to Let them Lye & not deliver them

till he sent his written order & he would pay the house Room according to which order we have been & are always ready & willing to deliver them & be Rid of them tho: not on Every ones prattle which they have Reason to be Shye off by Reason of y^e before Recited Treatment//

3^b To y^e third The Bills of Cost Tax are Pursuant to y^e special act of this Province which Revived this Cause & so Good In Law in the whole doubt not but this hon^{ble} Court will see Just Cause to Confirm the form^r Judgmt & grant the now Defendants sufficient Costs and Damages having been Injuriouly Kept out of their Just Due//

NATHANIEL SILSBEE
JOSEPH NEALE." — *Ibid.*

The conclusion of the judgment on this last issue, which was rendered by the Superior Court at the same term, was as follows:—

"Both parties Appeared the Writ Judgment Reasons of Appeal & all things touching the same being fully heard the whole was Committd to the Jury, who were Sworne to try the Same and Returned their Verdict therein upon Oath That is to say they find for the Appelles Confirmation of the former Judgment & Cost of Courts. Its therefore Considered by the Court that the s^d Nath^l Silsby & Joseph Nealse shall Recover of the s^d James Meinziez the Sum of Thirteene pounds fiftene shillings & Six pence money debt and Cost of Courts Taxed at Seven pounds fourteene shillings & Ten pence." — *Records of the Superior Court of Judicature, 1700-1714, fol. 158.*

Upon this, execution for the debt claimed and for £7 14s. 10d.* costs of suit, making a total of £21 10s. 4d., was issued May 22, 1705, and directed to the sheriffs of Essex, Middlesex and Suffolk.

On the thirty-first of July Sheriff Gedney of Essex made return that he had "not seen the body" of the defendant within his precinct since he received the execution until that day, when he saw him in Middlesex, whereupon he delivered the execution to the sheriff of that county; that he could find no estate belonging to the defendant in Essex county; and that Neale, for himself and as attorney for Silsbee, had ordered him to receive satisfaction in paper money. On the same day, Samuel Gookin, junior under-sheriff of Middlesex, returned that for want of estate or money to the acceptance of the creditors he had committed the body of Meinziez to the jail in Cambridge. Four days later sheriff Gookin made the following final return:—

"Middx ss.

August. 4. 1705

Reciv'd Twenty one Pounds Twelve shillings † in Province Bills of Credit at the valve sett In s^d Bills and for the Use and by the ord^r of the withinmentioned Neale which shewed a power of Attorney well Executed from s^d Silsby and have Returned said Bills with this Execvection into said Superiour Court In Salem the 2^d Tvesday in Novemb^r 1705

SAM^{ll} GOOKIN Sh." — *Suf-*

folk Court Files.

It was not, however, until nearly thirteen months after this deposit was made with the clerk that the plaintiffs got their money, as appears by the following receipt, which was endorsed on a copy of the execution on file:—

"Boston December 3^d 1706

Then Reed the Twenty one pounds Twelve ‡ shillings & four pence of Mr Elisha Cooke Jun^r Clerk of the Superior Court s^d Sum being what was left by Sam^l Gookin Sheriff as above for the use of us.

NATH SILSBEE
JOSEPH NEALE." — *Ibid.*

The defendant appointed Samnel Wakefield § his attorney in this case with power of substitution, and he, in turn, employed Paul Dudley and Joseph Hearne of Boston, sworn attorneys, to conduct the case.

The witnesses summoned for the plaintiffs, and who appear to have been in attendance when the case was in order for trial, were Jeremiah Neale and George Locker of Salem. They deposed that February 22, 1703-4, they heard Meinziez ask the plaintiff Neale if the casements were made, who replied that they were and that they would have been "put up before now but we waited for your order and some iron-work," whereupon Meinziez replied that it was no matter for he thought "of building a house at the eastward and should then have need of them," adding a request that Neale keep them and not to deliver them to any one but himself "or some particular order in writing under my hand, and I will pay you for houseroom."

Chap. 58. This chapter is from archives, vol. 71, p. 80. It is recorded in council records, vol. VIII., p. 80.

The snow-shoes, the cost of which is provided for in this and the following chapter, were ordered for the winter campaign of 1703-4. See chapters 66 and 85 of that year and the notes thereto. The following is the account referred to in the resolve as "on the other side:"—

"febru: 4 1703/4

Then Receined of Lient John Chandler of Andover twenty five paire of snow shues att five pounds fouer shilling and six pence in siluer mony for the owners will not part with them without this promts which I have ingaged on the pronicnes behalfe by order of his exelency

HENRY. SOMERBY

* The taxation of costs for the May term, 1705, has not been found. In adding the items of the other bills of costs on file there are some apparent errors, by which the plaintiffs seem to have been allowed seventeen shillings less than they claimed.

† *Sic.*

‡ Two shillings being added for the execution.

§ He was the "water-bailiey" whom the committee of Inquiry despatched to Cape Ann to discover and secure Quelch's men. See note to chapter 47, *ante*, and chapter 91, *post*.

three men that weare sent for to gather the snow shues together demands for their servis fouer shillings and six pence in all

HENRY SOMERBY." — *Mass.*

Archives, vol. 71, p. 81.

The "order of his Excellency," under which this debt and the debt mentioned in the next chapter were incurred, was undoubtedly a military order as Commander-in-Chief, and so, as in the case of military commissions, etc., has no place in the records either of the Governor and Council or of the General Court.

After the purchase of these snow-shoes and before the passage of this resolve, the act of 1704-5, chapter 4, was passed, directing that the militia on the frontiers be provided with snow-shoes; and from that time forth the accounts for this item of military equipment were rendered to the Governor and Council under the third section of that act.

The amounts ordered to be paid by this and the next chapter were included in one warrant, as follows:—

"Nov. 20, 1704. To Mr John Chandler the several snms of Five pounds nine shillings, and two pounds five shillings and six pence, for Twenty five pair of snow shoes, delivered by himselfe, and eleven pair delivered by Lt John Barker to Captⁿ Henry Somersby in February last, & for charges in gathering them together to be by him paid to the several persons to whom it is respectively due." — *Executive Records of the Council*, vol. 4, p. 110.

The province treasurer's account* shows that both orders were paid in one sum.

Chap. 59. This chapter is from archives, vol. 71, p. 88. It is recorded in council records, vol. VIII., p. 80.

The snow-shoes, the payments for which were reimbursed by this chapter, were procured for the same purpose and by the same authority as were those mentioned in the preceding chapter. The order for the executive warrant and the reference to the entry of payment thereof in the province treasurer's account are also given in the note to that chapter.

The following is the memorandum or receipt of payment referred to in the resolve as "within mentioned":—

"Febr: 4: 1703.

Then Received of Lent^y John Barker of Andoner: Eleuen paire of snow shues: att two pound three shillings & six pence in siluer money for y^e owners will not part with them without this promis which I have ingaged on y^e prouince behalfe by order of his Exclency: Received p^r me HENRY SOMERBY.

y^e men for Gathering Those abousd snowshoes: Two shillings: for their Charges." — *Mass. Archives*, vol. 71, p. 87.

Chap. 60. This chapter is from archives, vol. 71, p. 82. It is recorded in council records, vol. VIII., p. 80.

John Harraden, according to Babson,† was born in 1663, the son of Edward, who removed from Ipswich to Gloucester in 1657 and was the first settler on Squam Point. John was a noted master-mariner, served in the provincial navy as commander or pilot, and was distinguished for his exploits as a privateer.‡ "He died Nov. 11, 1724; having survived his wife Sarah Giddings, by whom he had several children, about two years."†

Harraden's company was the one which Colonel Benjamin Church§ raised on his way to Piscataqua to take command of the expedition to the Bay of Fundy in the spring of 1704, as described in the note to resolves, 1703-4, chapter 100. This company probably formed part of the Governor's escort.

Though this resolve provides only for the payment of the captain and lieutenant, the following order in Council for a warrant on the province treasurer shows that the wages of the privates in Harraden's company were paid as well as those of the officers:—

"Nov. 3, 1704. A Muster Roll of the Foot Company under the Command of Captⁿ John Harraden in the late expedition into the Bay of Fundy, containing an accompt of Wages for their service from the 25th of April 1704. to the 13th of August following for the Captain, being Fifteen weeks and six days, the most of the Company being but twelve weeks and six days, amounting in the whole to ninety seven pounds, eleven shill^s and three pence whereof eight pounds, nineteen shill^s and two pence taken up of the Commissary being subducted, rests due to ballance Eighty eight pounds, twelve shillings and a penny, having been examin'd by the Commissary General was presented — and.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the above sum of eighty eight pounds, Twelve shillings and a penny to the sd^d Captⁿ Harraden and Company accordingly." — *Executive Records of the Council*, vol. 4, p. 103.

The province treasurer's accounts|| show that of this amount £83 7s. was paid to Harraden and company, and the rest to "Matthew Coneway" and "John Honywell," two men who served under him.

Chap. 61. This chapter is from council records, vol. VIII., p. 81. It is preserved in archives, vol. 71, p. 83.

The order which constitutes this chapter was passed upon the following petition:—

* *Mass. Archives*, vol. 122, p. 235.

† *History of Gloucester*, p. 98.

‡ See *Resolves*, 1703-4, chapter 27, and note.

§ *History of Eastern Expeditions*, vol. II., p. 145. Harraden's name appears subscribed to the "result" of the council of war held in the harbor of Port Royal on board the Province Galley, July 4, 1704. *Ibid.*, p. 175.

|| *Mass. Archives*, vol. 122, pp. 220, 258 and 263.

"To his Excy^e y^e Govern^r and Hon^d Councill & Representatiues now in Generall Court Assembled in Boston: Nov^r 3^d. 1704.

The humble motion of Jonathan Tyng, of Dunstable

Sheweth.

That whereas y^{or} petition^r, by vertue of an order from his Excellency y^e Gou^v for the taking Care that p^suant to y^e Direction of y^e Generall Assembly, there should be erected and built four Blockhouses upon Merimaek River In Compliance where wth, he hath procured y^e same to be done and perfected, the same being all in y^e County of Midd^x—viz^t one in Billerica, Two in Chelmsford, and one in Dunstable for y^e which according to his agreement wth sundry p^{er}sons for y^e same he stands obliged to pay them six pounds apiece, y^e whole amounting to Twenty four pounds,

Humly prays. That y^{or} Exclency and y^e Hon^d Concell & Representatiues, would please to grant an order that he may be paid out of y^e Province Treasury the said sum, that he may satisfy y^e Workmen there wth as he stands obliged.

And as in Duty bound shall pray—

JONATHAN TYNG."—*Mass.*

Archives, vol. 71, p. 83.

The order of the Governor referred to in the above petition has not been found. It was undoubtedly a military order by the Commander-in-Chief, and therefore not a matter of record in the legislative or executive journals.

This petition was read in the House on the day of its date, when this chapter was passed by both branches and consented to by the Governor.

The order in Council* for the payment of the allowance granted by this chapter was passed November 20, 1704, and by the province treasurer's account† it appears to have been duly paid.

Chap. 62. This chapter is from council records, vol. VIII., p. 81. It has not been found in the archives.

For previous proceedings in the controversy between Penn and Hill see chapter 27, *ante*, and note. The hearing upon the petition of Thomas French and John Bowditch, appointed for "the second Wednesday of the next session" of the General Court, could not be held according to appointment, inasmuch as the session lasted but four days. The order of notice, however, was duly served, as appears by the following return affixed to the petition:—

"At the Request of Mr Joseph Hill w^t in menshoned I Read this notificasion to the w^t in named Thomas french samuel french and John Bowdidge on the twentieth of Juley & the 26th of Juley 1704

JOHN MILLS deputy sheriffe."—*Mass.*

Archives, vol. 40, p. 796.

No further action upon this petition has been discovered, either in the record or the files, until the passage of the order which constitutes this chapter.

The result of this last order of the Court was to transfer the case to the Governor and Council as the supreme court of probate.

The first entry of judicial action relating to this matter that has been found in the executive records of the council is the following memorandum, under date of June 2, 1705, of a hearing and a resolution thereupon:—

"A hearing haveing been had before this Board upon the Challenge made by Richard Draper and Joseph Hill Attourny of Anthony Penn of Brumingham, to the instrument approved and allowed as and for the last Will and Testament of his Uncle William Penn late of Brantrey within the County of Suffolk yeoman deced, as false and forged. And the question being put whither there do appear in the Law a forgery or perjury to void the Will.

Answered in the Negative."—*Vol. 4, p. 176.*

This ambiguous resolution, however, did not preclude further attempts to set the will aside. A deposition dated September 24, 1705, and two others, both dated June 3, 1707, are on file, together with other depositions of as late date as 1716, one of which later papers was to show that Anthony Penn, the heir, died about 1710.

The deposition first named was by John Marsh, taken at New York before William Peartree, mayor, in which the deponent declared that he saw Potwine make the rough draught of Penn's will after his death and use the dead man's hand in making the mark thereto; that he afterwards went to summon Doctor John Lee to draw the will in regular form; and that he heard Edward Hill promise ten pounds, each, to the subscribing witnesses as a reward for attesting it. He also repeated his former declarations to Joseph Hill that he had opposed his wife's testifying to the will in Court, and of his going to Concord to warn her against yielding to the persuasions of Edward Hill, who, by another road, was going thither for that purpose.

The next two depositions were by John Alkins and Susanna Critchfield, respectively. The former declared that, when the persons around Sea's deathbed left the room to give Mary Marsh an opportunity to confer with Sea alone, he and Mrs. Critchfield "stepped behind the screen that stood by his bedside," and that he heard Mrs. Marsh say, "Thomas, what need have you to say anything to bring me into trouble?—or to that effect." This Mrs. Critchfield corroborated, adding that she heard Mrs. Marsh say further, "Thomas, what need have you to say anything about old Penn's will, or to make trouble? You will get nothing by it."

The judicial proceedings to revoke the probate of the will appear to have been suspended between 1707 and 1715.

* Executive Records of the Council, vol. 4, p. 110.

† *Mass. Archives, vol. 122, p. 225.*

In the mean time, however, Clement Cock renewed his application for an act granting him a new trial, and John Hollis, at the same time, applied for a similar favor.

Cock's petition was identical with his petition of July, 1703,* save the addition of the following concluding passage:—

"and whereas Yor Pett^r p^rsented this Petⁿ to this Great & Gener^l Assembly at their Sessions In July, 1703 but Nothing then or since being Done in Answer thereto Yor Pett^r Now Humbly prays That Yor Excell^y & this Hon^{ble} Court will please Now to Consider the Deplorable Circumstance of Yor Pett^r & releive him accordingly and Yor Pett^r shall ever pray. &c."—*Mass. Archives, vol. 40, p. 866.*

Hollis's petition was as follows:—

"To His Excy Joseph Dudly Esq^r Cap^t Gen^l & Govern^r in Cheife in & over the Province of the Massach^{ts} Bay &c And to the Hon^{ble} Council of the s^d Province & Hon^{ble} house of Representatives Convinced + in Gen^l Assembly.

The Humble Petition of John Hollis of Bantrey in the County of Suffolk Planter Humbly Shewth

That whereas Anthony Penn of Brunningham in the County of Warwick in the Kingdom of England Under the Pretence of being Neflew & Heire of William Penn Late of Bantrey afores^d Dec^d At the Inferiour Court of Common pleas Held at Boston for the County of Suffolk on the First Tuesday of January 1702 Commenced an Action of Trespass & Ejectm^t ag^t Yor Pett^r for a p^{ce}ll of Vpland in Brantree whereof the s^d William Penn Died Seized in Fee, At which Court the s^d Anthony Penn After Issue Joyned & a full hearing of the Cause was Cast to pay Yor Pett^r Costs from which Judgment the s^d Anthony Penn Appealed to the Superiour Court of Judicature to be held at Boston on the First Tuesday of May 1703 where Judgment was rendered for Appellee Confirmation of the former Judgment & Cost of Court but the s^d Anthony Penn not being Satisfied with the afores^d Judgment at the Superiour Court of Judicature held at Boston afores^d vpon the First Tuesday in May 1703 afores^d Brought an Action of revieve ag^t Yor Pett^r att y^e Superiour Court of Judicature Held at Boston Vpon the First Tuesday in May 1704. Where Yor Pett^r was Cast & the s^d Anthony Penn thereby gott the Possession of the s^d p^{ce}ll of Vpland Sued for & Yor Pett^r has been wrongfully put out of the Possession thereof ever since as he hopes to make appear to Yor Excy & this Hon^{ble} Court for that the s^d Anthony Penn Demand^{nt} & Intitled himself to the s^d Land as only son to Anthony Penn the Brother of William Penn & by his owne Pretended Evidence Shews First that Deborah Hill the Wife of Edward Hill of Boston Cordwinder & others were related in Equall Degree with him to the s^d William Penn & by the Law of this Province have an Equall share with him in the s^d Land & had his Title been good Yet he never Produced any Legall Evidence of his relations to the s^d William Penn as the Law requirs & will appear Evidently for that the s^d Anthony Penn hath since brought several Ejectm^{ts} ag^t Divers other persons who hold some other of the Lands of the s^d W^m Penn Under the same Title & has always or at Least Finally been Cast vpon the Insufficiency of his Title Thirdly for y^t the s^d Anthony Penn Finding his Title not good for the whole has Sned for Part as coheirs with the s^d Deborah Hill & others & likewise been Cast upon the invalidity of his Title, Now for as much as the s^d Anthony Penn has no Legall Title to the afores^d Land & also for y^t the s^d W^m Penn made his Last will & Testament in writing and thereby Devised the same wth others To the s^d Edward hill which s^d Will was Duly proved & approved of according To the Law & never Yet made Null or Voyd But Vpon the Contrary at a Council held at the Council Chamber at Boston vpon the second of June 1705. vpon the Challenge made by Richard Draper & Joseph Hill Attorny's of s^d Anthony Penn to the Instr^{mt} Approved & allowed for the Last will & Testam^t of the s^d W^m Penn as false & Forged The question being putt whether there doe appear in the Law of Forgery or Pernury to Voyd the will Answered in the Negative as by the act of Council Appears. Whereby the s^d Edward Hill had good right to sell & for as much as Yor Pett^r has had Two Judgment ag^t the s^d Anthony Penn who only recovered vpon y^e review thro^o the Jurys Misunderstanding of the Law, which was the Desisive Tryall at that time & Yor Pett^r altogether without remedy vnless releived by this Hon^{ble} Court

Yor Pett^r therefore most Humbly prays That Yor Excell^y & hon^{rs} will be pleas^d to take the premisses into Yor Consideration & inable him by an Act of this Hon^{ble} Court to have a new Tryall of the s^d Cause where Yor Petitioner Doubts not upon a fair hearing thereof to recover back the s^d Land the Looseing whereof will be to the ruening of him & his Family

And Yor Pett^r shall ever pray &c.

JOHN ^{mark}_{his} HOLLIS."—*Ibid.*,

vol. 45, p. 350.

These petitions were both presented to the General Court in the first session of 1706,—probably on the twentieth of June, on which day they were both read in Council, but no further action thereon is recorded.

Cock applied again February 13, 1709-10, praying to be enabled to have a review of the action in which Penn recovered judgment against him. Upon this the General Court ordered a hearing, after notice to the adverse party, who, in the mean time, was "forbidden to make any strip or waste of the timber or trees on the land in dispute."[†]

The date assigned for the hearing was the first Tuesday of the next May session. By adjournment, it was postponed until the seventh of June, on which day the following record was made:—

"June 7, 1710. A Hearing having been appointed before this Court of the Petition of Clement Cock, Praying to be Enabled to have a new Tryal of a Cause wherein Joseph

* See pp. 374, 375, *ante*.

† *Sic*: convened.

‡ See vote of February 13, 1709-10.

Hill Attorney of Anthony Penn as Heir of William Penn late of Brantrey Dec^d recovered against him in the Superiour Court of Judicature 1698:

The Parties appeared, & being heard before the Council; — And the Question being put, Whither the Petitioner shall have a Tryal granted him? It past in the Negative.

Which being disagreed to by the Representatives; And a Vote pass'd in that House for a Tryal, And sent up for Concurrence; The Council voted a Non-Concurrence therewith." — *Council Records*, vol. IX., p. 32.

From the following entry it appears that nearly six years later Anthony Penn made another ineffectual attempt to obtain his rights: —

"Dec. 6, 1715. A Petition of Joseph Hill being twice read was ordered to be dismiss'd." — *Ibid.*, vol. X., p. 19.

Very likely the purpose of the petitioner was to procure an act or resolve of the Legislature, although his application may have been made to the Governor and Council for a judicial remedy, since it was not uncommon to enter judicial and executive proceedings in the volumes that contain the legislative records of the Council.

Finally, six months after this last order, the question of the validity of the will was settled by the Governor and Council in the following judicial declaration: —

"June 25, 1716. A full hearing having been had before this Board the twenty first current upon the Petition of Joseph Hill & Richard Draper Attorneys of Anthony Penn of Bermingham & Mary Ensor of Dennington in Great Britain setting forth that the Instrument approved & allowed as & for the last Will & Testament of their uncle William Penn late of Brantrey within the County of Suffolk yeoman deceased is false & forged, Praying that the s^d last Will & Testament may be declared null & void & all the evidences & papers produced by both partys relating thereto were distinctly read over & deliberately debated

Voted & declared That the s^d Will be null & void." — *Executive Records of the Council*, vol. 6, p. 477.

This judgment, solemnly declared, after due deliberation, upon a hearing of all parties interested, remained final and unrevoked.

Dudley, by whom the will was originally admitted to probate, and who had succeeded Stoughton as chief executive, and head of the Council of the province, had been superseded only the year before, which circumstance, possibly, may account for the delay in revoking his decree. Sewall, who fails to make any mention of this case in its earlier stages, thus records the final action of the Supreme Court of Probate: —

"June, 25. [1716.] W^m Penn's Will is declared Null and Void." — *Diary*, vol. III., p. 88.

Nine years later Samuel Broughton, one of the heirs of Mary Ensor, coheir of Anthony Penn, conveyed * to William Walker all the interest which he had acquired through her in the estate of William Penn. This is another indication that the heirs, as defined by the provincial laws of descent, had finally prevailed against the fraudulent devisee. Hence Anthony did not succeed to the whole by right of primogeniture, but only to his portion in common with his cousin.

Chap. 63. This chapter is from council records, vol. VIII., p. 81, and archives, vol. 111, p. 77.

The petition mentioned in the preamble to this chapter is as follows: —

"To his Excellency Joseph Dudley Esq^r Cap^t Generall And Gouverneur in Chief in and over Her Maj^{ty} Province of The Massachusetts Bay in N. England & And to the Honourable Her Maj^{ty} Councill, And The Houss of Representatives Convened in Generall Assembly. And Now sitting at Boston The 26th Day of Octor 1704

The Humble Petition of Nich^o Boone of Boston Bookseller

Sheweth.

That Whereas your Petitioner now dweleth next door to the Post office, in the which House the Widdow Susannah Campbell Kept a Coffe house, and had a Licence for selling of Coffe, Tea, Cachcalate, Bear, Ale, Cyder, Mead, Mumm, and other such drinks as are vsually sold in such Houses. And sencerall Gent^lmen Merchents &c. finding such a house Needfull Near the Post office, for their Conueniency to stay in till the Maile of Letters, are opened and sorted, and in Reguard the Law of this Province hase Barred your Petisiner, to Obtain such a Licence as the Widdow Campbell had for Accomplishing the same, the sessions of Court for granting Licenses for the present year being over. Your Petitioner Therefore Humbly prays

That your Excell^y And this great and General Assembly will be pleased to take the premises into your most Matner and wise Consideration and Allow the Justices of the Court of General Sessions of the Peace for this time, grant your Petitioner the s^d Licence for ye remain^g of ye year and your Petitioner in Duty Bound shall euer pray, Being always,

Your Excellencies & Honours most Humble and Obedient Serment.

NICH^o BOONE." — *Mass.*

Archives, vol. 111, p. 77.

This petition was read, first, in the Council on the third of November, on which day the order which constitutes this chapter was passed by both branches and consented to by the Governor.

For an account of Duncan Campbell's widow Susanna, see note to resolves, 1703-4, chapter 30.

The only evidence that has been found of Boone's receiving a license to keep a coffee-

* Suffolk Registry of Deeds, lib. 40, fol. 83. Broughton was of Baddesley, and Walker of Winton Hall, in the parish of Aston, near Birmingham. The former is described as "elder merchant" and the latter as "merchant." The other heirs were Samuel Freeth and Joseph Bennett.

house is a list of names under the head of "Coffee Houses," entered before the record of the beginning of the October term of the Court of Sessions in Suffolk for 1704, as follows:—

"Robert Gutteridge 1.
Nicholas Boon 0, 10."

From the small amount paid by Boone it seems likely that this entry referred to a license given by virtue of this chapter, for the remainder of the year, and that, being issued out of season, the clerk entered it back with the last record of a license for a coffee-house.

In 1704 Boone's bookstore* appears to have been in his dwelling-house, on the site of, and perhaps in the building, kept as an ordinary by James Penn as early as 1645.† It seems to have stood between the post-office and the estate of which Benjamin Davis died seised in 1704, which was on the western side of Washington Street, and formed the southern corner of Court Avenue.

Chap. 64. This chapter is from council records, vol. VIII., p. 82, and archives, vol. 17, p. 117.

The petition mentioned in the preamble to this chapter is as follows:—

"To his Excellency Joseph Dudley Esq^r Cap^t Gen^l & Govern^r in & Over her Maj^{ty} Province of the Massachus^{ts} Bay in New England & to y^e Hon^{able} Council & Representatives Convened in Gen^l Corte the 25 Octobr 1704 The Humble Petition of Sam^l. Partridge of Hatfield Sheweth.—

That Whereas y^{or} Petition^r and Eliez^r Frary are administrators to y^e Estate of Sam^l Graves of Hatfield he & his Wife both deceased y^e accompts of sd administration not fully Issued In as much as y^e deceased Left three Sons y^e Eldest of which fell Lame w^{ch} Exhausted much of the Estate hoping for a cure Though it proved otherwise he dyed Under age & Left y^{or} Petition^r indebted to y^e Chergions 44¹¹, 14², 4^d w^{ch} with some other small debts are yet to pay y^e Reason I move to this Corte is the intestates Moveable Estate being all spent in cleering of the Estate & there being a Considerable Estate in Lands Not devidyd y^e Right to One half of w^{ch} acerned to this Son deceased This debt not contracted by the deceased but of Necessitie by us Since his death I humbly conceive None can afford Reliefe in this case but this Corte Therefore Humbly pray That this Corte would be pleased to Grant me an order for the Sale of so much of the Land aforesd for y^e paym^t of s^d Charges the Remaind^r may Revert to Sirvivors & for y^{or} Hon^{rs} I am oblidged to pray

SAM^{LL} PARTRIDGE In behalf of himself & Eliez^r Frary." — *Mass. Archives*, vol. 17, p. 117.

This petition was read, first, in the Council, on the seventh of November, when the order which constitutes this chapter was passed and sent to the House for concurrence. On the next day it was concurred in, and consented to by the Governor.

Samuel Graves, senior, of Hatfield (son of Isaac) died February 8, 1692-3. His wife Sarah (Colton) having died July 11, 1689, he married Deliverance ——— January 1, 1689-90, who, having survived him, was married before the date of this resolve to Isaac, son of John Graves. Samuel's three sons were Samuel, born March 2, 1685-6, — for whose cure the expenses mentioned in this chapter were incurred, — Joseph and Thomas. The last appears to have been the son of the second wife, since his birth is recorded as occurring October 21, 1690.

In 1697-8 † the administrators having fully administered all the personal estate of their intestate obtained from the probate court the following decree for turning over the real estate to the control of the guardians of the minor children:—

"Sam^l Partrigg & Ens: Eliazer frary of Hatfield p^{re}senting an accompt of the Estate of Sam^l Graves Sen^r of Hatfield deceased they being administrators to s^d Estate which accompt is that all y^e Moveable goods are disposed of to pay debts & the Estate is yet indebted 4¹, 19¹ w^{ch} y^e Lands are lyeable to make paym^t of & the Lands & Children being Under Guardians & at their dispose therefore s^d Guardians viz Qu^r George Colton Tho Colton & Isaack Colton are to defend it & the afores^d Sam^l Partrigg & Ens frary Administrato^{rs} afores^d are discharged any Further care or trust about s^d Estate." — *Hampshire Probate Records*, vol. 3, p. 29.

At the date of this decree there was no provision for the sale of a minor's real estate by his guardian.‡ The Court of Sessions therefore ordered the selectmen of Hatfield, where the minor was staying in charge of a physician, to take care of him. Their authority for this, apparently, was the act§ for the relief of idiots and distracted persons. After the decease of the minor, the selectmen presented to the Court of Sessions their account of expenses for his board and care, with the view of raising, by the sale of his real estate, a sum sufficient to discharge the balance due. The Court, however, had no jurisdiction in this matter, that function belonging exclusively to the Superior Court of Judicature; and as the sessions of the latter were at the time suspended¶ in Hampshire County, the petitioners were referred to the Legislature.

The orders of the Court of Sessions and the selectmen's account are as follows:—

* In several title-pages in 1701 ("The Fear of an Oath," by Rev. Samuel Willard, and "The Blessed Hope," etc., by Rev. Increase Mather) Boone describes it as "over against the Old Meeting House." This seems to indicate that, at that date, he was either in Davis's building or on the other side of Washington Street.

† Suffolk Registry of Deeds, lib. 1, fol. 60.

‡ No date appears in the decree, but the last preceding entry in the record bears date March 4, 1697[82].

§ See note to private act, number fifteen, vol. VI., p. 101.

¶ Province Laws, 1693-4, chapter 18.

‡ From August, 1698, to August, 1716. See order, 1703-4, chapter 43, and note.

"Anno RR^{te} Gulielmi Tertij Decimo Tertio

Att Court of General Sessions of the Peace Holden at Springfield within and for the County of Hampshire on the First Tuesday of Septem^r being the Second day 1701.

Present

John Pyncheon	Aaron Cooke	} Esq ^{rs} Justices of sd Court
Sam ^l Partridge	John Holyoke	
Joseph Hawley	Joseph Parsons	

... Ordered That the Selectmen of Hatfield from this time Forward Take Care of Sam^l Graves a Lame Lad Now under the Hands of Doct^r Thomas Hastings, That the sd Graves be Provided with things Necessary in ord^r to his Cure and Subsistence Until the Next Supert Court for this County Shall Determine by whom the Charge thereof Shall be Defray'd." — *Records of the Court of Sessions, in the office of the Clerk of the Courts for Hampden County, 1693-1706, p. 124.*

"febr: 5: 1704*

Whereas y^e Qu^r sessions in Hampshire gave ord^r to the Select men of the Town of Hatfd to take care of Sam^l Graves a Lame man being in Hatfd Und^r cure with Doct^r Hastings who was Serv^t to Deacon Eben^r Parsons

An accompt of Expences		d ^r	li	s	d
To Doct ^r Hastings for Medicine & cure	.	.	18	17	0
To John Feild Sen ^r for Bording 20 weeks 4 ^s p ^r	.	.	4	00	0
To Wido Miller for Medicine & cure 20 th for Bording him 88 weeks at 4 ^s p ^r	.	.	37	12	0
To Ens: Frary Bording him 53 weeks 4 ^s p ^r	.	.	10	12	0
To Isaack Graves Bording sd Graves 8 weeks 5 ^s in pay & in Clothing 14, 0, 9	.	.	3	0	9

The Estate is indebted to Cap^t Tho Colton 10th of mony to sd Frary . . . 74, 01, 9
10, 00, 00

84, 01, 09

Cred^r

To paym ^t to Doctor Hastings	.	.	8	17	4
To John Feild Sen ^r	.	.	0	3	8
To Wido Miller	.	.	17	5	8
To Ens Frary	.	.	10	0	0
To Isaack Graves	.	.	3	0	9

39, 7, 5

Rests due to Ball: . . . 44, 14, 4

SAM^l PARTRIDGE } In y^e Name of the
Select men in Hat-
feild." — *Mass. Archives,*

vol. 17, p. 118.

"The abovesaid accompt being p^rsented to this Corte this 4 April 1701 The sd Graves being dead & No Certaine direction how sd Ball shall be pd do order sd accompt be Re- corded with of Records & true Coppys p^rferred by S Partridge Esq^r Unto y^e great & Gen^l Corte in Boston On y^e Last Wednesday in May Next for their act & Ord^r how sd Sum or Ball shall be payd Either Ont of sd Graves ffathers Estate or otherwise as they shall determine

Attest JOHN PYNCHON Cler^k." — *Ibid.*

No record of any conveyance under this chapter has been found; and the following successive decrees of division by the probate court of the real estate of Samuel Graves, senior, justify the inference that the authority conferred by the resolve was never exercised:—

"A Distribution of The Estate of Sam^l Graves of Hatfield Deceas^d to his Children To The Eldest Son Sam^l Graves of the lot at Gate 2 acres 40. Rod to Joseph Graves 1. acre & 20 Rod, To Thomas Graves 1 acre 20 Rod, of the Swamp Lot To Sam^l one acre and hnlfe to Joseph 3 Roods, to Thomas 3 Roods, of Upper Hallow Lot to Sam^l 2 acres To Joseph one acre To Thomas one acre, of the lot at Bashan To Sam^l 3. Acres to Joseph one acre and hnlfe & to Thomas one acre and Hnlfe, Hopewel Lot To Sam^l 6 acres hnlfe, To Joseph 3 acres & 40 Rod To Thomas 3 acres & 40 Rod. The Woodlands to be Divided as abovesaid to the 3 Sons as afores^d the Wid^w Now Wife to Serj^t Graves to have her 3^ds of Each ones Share or Portion for her Life at Death then to Revert as abovesaid to Compleat there Shares, And I Appoint Serj^t John White, John Dickenson & Sam^l Billing to be the Dividers of sd Estate to Each one There Portion or Share as aboves^d Both for Quantity & Qualitty also all other Estate of Right to sd Estate to be Divided by sd Rule & Proportion And So Also if Either of the aboves^d Joseph Graves & Thomas Graves Dye Before of age the Survivours to Enjoy by the Like Proportion dated this 20th day of March 1706 —

SAM^l PARTRIDGE." — *Hamp-*

shire Probate Records, vol. 3, p. 153.

"A Full Settlem^t of The Estate of Sam^l Graves Deceas^d all former Debts being Paid and Since a Debt of £15: 11: 11^d Being Expences on a Lame Son of his Which was Under age, And to be brought up and Cured by his Estate virtually his Debt as p^r an order of the Gen^l Court bearing date Novem^r, 7. 1704. Which Debt was paid by the Eldest Son now Living (viz) Joseph Graves of full age and Subdncted out of the Sum Total of the Lands which was £81: 15: 11: See their Remained but 36th 1st 0th To be Divided to the Wid^w Graves sd Joseph Graves and Thomas Graves Which is to be the Wid^w 12th 4th and to Joseph Graves 16th 5th and to Thomas Graves 8th 3th The Wid^w and sd Thomas Graves being Int Together and Delivered to her occupation till sd Thomas Comes to be of age

* Evidently miswritten for 1703-4.

at 20th 7^d Is Set out to them by one acre and Halfe of Land in the Home meadow lot at South Side of it at 6th 10th; 1st acre at 9th 15th; one acre in the Swamp lot at East Side of it at Cowbridge at 5th one acre in the Upper Hollow at East Side of it at 2th 5th — one acre and the 5th Part of an acre in the Lot at Bashan at the West Side of it 2th 10th; 11th 1st acre at 3th 7^d all which Amounts to 20th; 7^d The Wid^{rs} and Thomas full Share, the Wid^{rs} Share for Life only and then to Revert to Joseph and Thomas by the like Proportion as abovesaid And Thomas Share to Revert to Joseph Graves Provided he Pay the Just Sum of 8th 3^d To his Brother Thomas within one Year after Said Thomas Comes to the age of 21. Yeares, and So for Tho^s Share of the Wid^{rs} Thirds when it Reverts as aforesaid to be to Joseph Paying the value thereof to Thomas as aforesaid, Note also that Joseph Hath 4th worth of Land of the abovesaid for a Debt he Paid to his mother Deliverance Graves of 4th money so in the Sequel he is to Have the whole of his Father lands in Hatfield Performing as afores^d. This aboves^d = s^d Settlem^t is allowed and Approved of this 11. day of April 1709: p me SAM^l PARTIDGE Judge
of Probates." — *Ibid.*, p. 203.

"Whereas the Estate Sam^l Graves Sen^r sometimes of Hatfield Deceased In y^e first Inventory Consisted of Real & personal Estate All which by y^e payment of Debts & other Charges was Reduced to these Remaind^{rs} of Real Estate as followeth

To the home Mead ^{ow} lot at gate 5 Acres & 1/2 of Land at 6 th /10 p ^r	£35 th 15 "
To a swamp lot at Cowbridge in y ^e Great Mead ^{ow} 3 Acres at 5 th /10 p ^r	15 " "
To the upper hollow lot in great Mead ^{ow} 4 Acres at 2 th /5 p ^r	9 " "
To A lot in Bashan in great Mead ^{ow} 6 Acres at 2 th /10	15 " "
To Hopewell lot 13 Acres of land at	5 " "
To the Comon lands in Hatfield	2 " "

All Apprized according to Law — 81th 15 "

Out of which is to be paid Debts as followeth —

To Widow Miller for Samuel Graves Cure	20 th 6 th 4 th }	
To John Field Sen ^r for boarding Sam ^l at	3 th 6 th 4 th }	
To Doct ^r Hastings for Sam ^l Cure at	9 th 19 th 8 th }	
To Ens Eliez ^r Frary for boarding Sam ^l at	12 th " "	49 th 10 th 4 th }
To Cap ^t Colton p ^d to Ens Frary for boarding Sam ^l at	10 " "	
To his Mother Deliverance Graves for land Redeemed	4 " "	
To Sam ^l Smith Chiliahs Son of Hadley for an Old Debt.	1 th 6 th " "	

free Estate 32th 4th 8th

Out of which the Widows 3^ds is set out Viz:

To 3 Roods of land at the home Mead ^{ow} gate 6 th /10 p ^r Acre	4 th 13 th 4 th }	
To y ^e swamp lot at Cowbridge half an acre at 5 th /10 p ^r Acre	2 th 10 th " "	10 th 14 th 7 th }
To y ^e Upper hollow lot 3 Roods at 2/5 p ^r Acre	1 th 13 th 9 th }	
To Bashan lot 3 Roods at 2/10 p ^r Acre	1 th 17 th 6 th }	

21th 10th 1st

Note that Thomas Graves A son to y^e Deceased hath A right or single share in s^d Remainder at 7th 3th 9th Which Joseph Graves the Eldest son is to Enjoy the land according to Law he paying to Thomas y^e full sum of 7th 3th 9th in Curr^t Money of New England for it & A Certain Rent after y^e Rate of 6 p^r Cent p^r Annum from y^e Day of the Date hereof till he pays the full Value of the land afores^d viz Eight and ten pence Yearly till he pays s^d Sum of 7th 3th 9th 7th 3th 9th

Josephs Double Share 14th 6th 4th

Note alsoe that the Wid^{rs} 3^ds above set out Reverts to Joseph Graves allowing to Thomas Graves A single share of it Viz 3th 11th 6th after y^e Widows decease The s^d Joseph Graves paying (after he Enjoy s^d Wid^{rs} 3^ds after the Rate of 6 p^r Cent p^r Annum Viz: 4th/5 Every Year till he pays y^e s^d 3th/11/6 To Thomas in Money —

Note alsoe that then Viz when Joseph Graves hath paid the Debts afores^d & to Thomas as above Expressed Then all s^d land to be to him & his heirs for Ever Always provided that if any more Estate appears or Debts due to the Estate of Sam^l Graves Sen^r afores^d as alsoe if hereafter their is made to appear any due debts from s^d Estate the s^d Wid^{rs} Joseph & Thomas shall receive of what is coming as alsoe pay out of any such debts Due from it to receive & pay in each Ones proportion as aboves^d & this I allow & approve as A final distribution & settlem^t of the Estate of Sam^l Graves Sen^r of Hatf^d Deceased this 12 Day Septemb^r 1710 —

SAM^l PARTIDGE Judge

of probate." — *Ibid.*, pp. 234, 235.

Chap. 65. This chapter is from council records, vol. VIII., p. 82. It has not been found in the archives.

The following is the clause of the Governor's speech of October 26, 1704, referred to in this chapter: —

"I have to Recommend to you the Consideration of the Gally which is our only force at sea, and is found so very unfit for the service, that every skilfull man of the Sea and The Good Comander we have in her, thinks it of absolute necessity that she be disposed of and a better bought Or built for that service especially at this time when the Gosport is Commanded home which is the only Ship of Warr that has lately attended her Majestyes service here." — *Mass. Archives*, vol. 108, p. 19.

For the snbstance of the report of this committee, and for the action of the Legislature thereon, see chapters 75 and 78, *post*, and 1705-6, chapters 37 and 39.

Chap. 66. This chapter is from council records, vol. VIII., p. 83. and archives, vol. 71, p. 90.

The following is the petition mentioned in the preamble to this chapter:—

"To His Excellency Joseph Dudley Esq^r Captⁿ Generall and Governour in chief of Her Maj^{ties} Province of the Massachusetts Bay &c^t and to the Hon^{ble} the Councill and Representatives in Generall Court Assembled.

The Petition of Lewis Bane.

Humbly Sheweth

That Your Petitioner was the last winter Honoured with a Commission* from his Excellency to Command a Company of Voluntiers, against the french and Indian Enemy, and March'd with a Company for the space of sixteen Daies, upon the Act of this Court giving an Hundred Pounds, 1^o Scalp of every indian Enemy slain in fight.

But before the sd^o Company could march there was Necessity of furnishing them with twelve Snapsacks, and twelve p^r Mawgissons, which your Petitioner Took up for his Souldiers, of M^r Commissary Whittemore, and now stands charg'd for the same in his Books.

Furthermore Your Petitioner was the last fall Impressed by M^r Justice Prebble to Carry Letters for Her Maj^{ties} Service, from York, to Niehewannock, where being Arriv'd Your Petitioner's Horse & Saddle were Impressed, for the service of the Army marching to Pegvackit, and the Saddle lost in the service, which is to the Damage of Your Petitioner at least sixteen shillings.

Your Petitioner therefore most humbly Praies this Hon^{ble} Court, to Acquitt him from the Demands of the sd^o Commissary, for the twelve Snapsacks, and twelve pair of Mawgissons aforementioned, And Also to Grant such Allowance for his, service in riding Post, and for his saddle afores^d as in your wisdom shall be thought meet.

And Your Petition^r shall as in Duty Bound Ever Pray

Nov^r 8: 1704

LUCIUS BANE."—*Mass.*

Archives, vol. 71, p. 89.

This petition was read in the House on the day of its date, when the resolve which constitutes this chapter was passed by both branches and consented to by the Governor.

The order in Council† for the payment of the allowance granted by this chapter was passed November 20, 1704, and by the province treasurer's account‡ it appears to have been duly paid.

Chap. 67. This chapter is from council records, vol. VIII., p. 83, and archives, vol. 45, p. 307.

The petition mentioned in the preamble to this chapter is as follows:—

"To his Excellency Joseph Dudley Esq^r Captⁿ Generall and Governour in Chief in and over the Province of y^e Massachusetts Bay, and to the hon^{ble} The Council & house of Representatives in Generall Court Convened

The humble Petition of Richard Towt of Boston Shewth/

That, your Petitioner made a Deed of Gift of a house and Land lying & being at the North end of the Towne of Boston, unto his son Richard Towt, dated ye 5th April 1690. upon special trust & Confidence, that his sons Rich^d Benjamin & John might not be defrauded by their Mother in Law in Case of her survival, of what Estate, he designed them; & that still notwithstanding, he might have full power to Convey & sell the sd house & land for his support or maintenance, if he shou^d be so minded as by good proof will appear.

Now so it is may it please Yor Excy & this hon^{ble} Court, That your Pet^rs three Children are all dead your Pet^r reduced to a very low & indigent Condition; is of above the age of Eighty five years, & very necessitous

He therefore humbly Intreats this hon^{ble} Court, to Enable him to sell the p^rmisses for his support: otherwise he must unavoidably rely on ye Charity of ye Towne

And Your poor Petitioner as in duty bound will pray &c^a—

the mark of Richard toute
R T."—*Mass.*

Archives, vol. 45, p. 306.

This petition was read, first, in the House November 1, 1704. On the third the order which constitutes this chapter was passed and sent to the Council for concurrence. On the eighth it was concurred in, and consented to by the Governor.

Samoset Place was laid out through a part of the realty conveyed by Towt to his son which, on its southeastern boundary, adjoined the estate of Mountfort, described in the note to chapter 11, *ante*. The following is the description given in the deed:—

"All that my Messuage or Tenement with all the Land whereupon the same doth stand and is thereunto belonging (in the present Tenure and occupac^on of me the s^d Richard Towt Sen^r.) situate lying and being at the Northerly end of the Towne of Boston afores^d butting and bounded Northerly upon a certaine Lane knowne and called by the name of Blackhorse Lane, Easterly by the land of Edmond Mountfort, Southerly upon the land [Richard ?] Bennet, and Westerly upon the land of Charles Precious, or howsoever otherwise bounded or reputed to be bounded: Measreing in breadth at the ffront by the said lane Thirty one ffoot or thereabout, and in breadth at the Reare Thirty one foot be it more or less upon the land of the said Precious, and in Length from front to reare ninety [—] foot be it more or less keeping the aforesaid breadth throughout the whole length."—*Suffolk Registry of Deeds*, lib. 17, fol. 28.

The following are the items of personal estate conveyed in the same instrument:—

* In the province treasurer's accounts, and in the legislative list for this year, as representative of the town of York, he is styled "Captain."—*See Archives*, vol. 122, p. 251.

† Executive Records of the Council, vol. 4, p. 110.

‡ *Mass. Archives*, vol. 122, p. 233.

"2 Bedsteads, 1 feather bed, Red Rugg. 14 Pewter Dishes, 6 pewter plates, 1 pair of Iron Andirons, 1 Brass Kettle, 1 little Iron Kettle, 1 Iron pot, 1 pr red Kersy Curtaines & valence, 1 pewter porringer." — *Ibid.*, fol. 30.

An affidavit of livery of seisin, clearly sworn to by John Coombs and Eliezer Moody before John Eyre and Jeremiah Dummer, justices of the peace, was endorsed on the deed.

Under the authority conferred by this chapter "Richard Towte . . . Lighterman," conveyed this estate, describing it as in Black-Horse Lane, to "William Browne of Boston . . . Joyner," January 1, 1704-5, by deed recorded in Suffolk Registry of Deeds, lib. 22, p. 108.

Chap. 69. This chapter is from council records, vol. VIII., p. 84. It has not been found in the archives.

On the third of November, 1704, the House ordered that a message be sent up to the Council recommending that a day of thanksgiving and a day of fasting be kept. The former part of this order was as follows:—

"Ordered That a Message be sent up to the Board, That a Day of Publick Thanksgiving be in a short Time Appointed, and Solemnized, throughout the severall Towns & Precincts of this Province, for the very great, and various Occasions thereof, which It is left to the Hon^{ble} Board to Enumerate." — *Mass. Archives*, vol. 11, p. 194.

Thereupon the appointment mentioned in this chapter was agreed to, and on the same day the following proclamation was signed and published:—

"By His Excellency, **JOSEPH DUDLEY**, Esqr Captain General and GOVERNOUR in Chief, in and over Her Majesties Province of the *Massachusetts Bay*, &c. in *New-England*.

A PROCLAMATION for a General THANKSGIVING.

Whereas it has pleased Almighty GOD to Prosper the Armes of Her Sacred Majesty and Her Allies, with Victory over their Enemies in the Summer past; And of His Infinite Goodness to extend His Favours towards this Province in divers signal Instances thereof; In defeating and disappointing of the Combinations, and the Expeditions of the Enemy against us, And the good Success given us against them, by delivering so many of them into our hands; In Granting us a good Harvest, notwithstanding the Drought, which so much threatened us; In continuing Health in the midst of us; And the Priviledges and Advantages of Religion; Every of which undeserved Mercies demand most Grateful Returns to Him who is our Great Benefactor.

I do therefore, by and with the Advice of Her Majesties Council, and at the desire of the Representatives, Order and Appoint *Thursday the Twenty-third* of this present *November*, A Day of General *THANKSGIVING* throughout this Province, Inhibiting all Servile Labour thereupon; And Exhorting both Ministers and People in their respective Congregations and Assemblies, to Celebrate the Praises of GOD, for all His Benefits and Blessings, And to devote themselves a Thank-Offering to Him in a right Ordered Conversation.

Given at the Council Chamber in Boston the Eighth Day of November, 1704 In the Third Year of the Reign of Our Sovereign Lady ANNE, by the Grace of God of England, Scotland, France and Ireland, Queen, Defender of the Faith, &c:

By Order of the Governour and Council.

J. DUDLEY,

Isaac Addington Secr.

GOD Save the QUEEN." — *Boston News-Letter*, No. 30.

Chap. 70. This chapter is from council records, vol. VIII., p. 84. It is preserved in archives, vol. 101, p. 271.

The vote of the House of the twenty-ninth of June, 1704, printed in the note to chapter 3, *ante*, not having been concurred in by the Council, nothing further was done upon the report (which is printed in the same note) of the committee upon Usher's accounts, in either the first or second session of the General Court this year; but on the seventh day of the third session, the report, which had remained with the Council, was sent down to the House, as appears by the following entry:—

"Oct. 31, 1704. The Report of the Committee upon the Accompts of John Usher Esqr late Treasr of the Territory of New England, refer'd by the Representatives for Consideration at this Session, was sent down to that House." — *Council Records*, vol. VIII., p. 77.

On the third of November the House again took into consideration the vote of the Council of June 28, 1704, and passed a vote thereon, which is endorsed upon the report of the committee, as follows:—

"In the House of Representatives Nov^r 3: 1704:

Read And the Question being Put whether the House Concurr with the vote of the Board pass'd June 28: last viz^t That Mr Usher be heard upon the Articles in Question, before the whole Court? It Pass'd in the Negative.

JAM^s CONVERSE speaker." — *Mass.*

Archives, vol. 101, p. 271.

Six days later the representatives passed the following vote, in which the Council concurred:—

"Novem^r 9: 1704. Upon further Consideration of this Report

Ordered That Mr Usher have Liberty to be heard upon the matter therein Contained on the next Tues-Day before this Court." — *Ibid.*

These votes the Secretary, when he made up his records, combined in the form of this chapter.

On the ninth, upon further consideration, the House passed the order which constitutes this chapter.

The subsequent action upon Usher's accounts will appear later on. See resolves, 1707, chapter 2, and note.

Chap. 71. This chapter is from council records, vol. VIII., p. 85, and archives, vol. 30, p. 498.

During the whole of May, Dudley had held to his intention to forward two hundred additional volunteers to Hatfield by the last of the month, nor did he abandon his purpose to send this reinforcement until nearly a month later; but Massachusetts had already about fifteen hundred men in arms, and the possibility might have been foreseen, as the event proved, that a still larger force would be called into service at the eastward. Hence, after apprehensions as to the presence of a large force of the enemy at Cowassic had been quieted upon the return of Lyman's scouts, notwithstanding continued rumors of the enemy's approach,* Dudley decided that the menace upon which his promise was founded no longer existed, and, therefore, on the twenty-fourth of June, he informed Winthrop that the two hundred men† intended for Hampshire had been sent to join the forces raised to meet the enemy in New Hampshire and western Maine.

But those who were conducting military affairs at the west could not dispel the suspicion that the enemy was intending to attack them in force from the north.‡ This suspicion was founded upon the circumstances described in the note to resolves, 1705-6, chapter 26, and though the project of moving in force through the wilderness in search of the enemy was not approved by them, they were fixed in their purpose to be constantly on the alert for his approach, and to keep up the garrisons to their full capacity.

All, however, even among the rulers of Connecticut, were not thus affected by the situation, and in consequence of the feeling that the imminent peril was past, squad after squad of the reinforcing parties were being called home, notwithstanding the tidings "of approaching danger" that had come from Albany, as narrated in the note to chapter 7, *ante*. These tidings revived or confirmed the apprehensions of those who had been most anxious in regard to the prospect of invasion. The governor of Connecticut, recognizing the reasonableness of the desire of his volunteers, whose service had been prolonged far beyond the period for which they had enlisted, to return to their families and to their ordinary vocations, was embarrassed by the prospect which their proposed desertion of the frontiers presented. All the fresh recruits available were seasonably forwarded to take the place of those who were leaving the front.§

Nearly two weeks before Winthrop received Dudley's discouraging letter he had thought of applying for assistance to the governor of New York, but upon advice of the committees of war for the counties of Fairfield and New Haven he abandoned that project in the hope of enlisting the Mohegans and the Five Nations as allies.

With about seven hundred men in the woods or in garrison, most of whom were on territory in which neither the legislature nor the Governor could exercise any official authority, this little colony || was facing the possibility of being suddenly confronted by a powerful, experienced and well-appointed army, inspired with the most sanguine hopes of conquest, and bent on savage vengeance. Encouragement was derived at this stage from the vote of the Legislature of Massachusetts, chapter 7, *ante*, and, later on, by the vote, chapter 19, *ante*, for subsisting Connecticut men in garrison, so as to release an equal number of Massachusetts soldiers for service on the northwestern frontier.

From contemporary correspondence and other well-attested evidence it appears that Major Whiting was convinced that the repeated reports of an intended invasion from Canada were well founded, and that it was not improbable that a considerable body of the enemy was already approaching the towns of northern Hampshire. As the best plan, therefore, for overcoming the apathy of those who were acting as if all danger were past, he seems to have suggested that the project of a large expedition to Cowassic be revived. Four days, therefore, after Dudley had written notifying Winthrop of the withholding of the contingent he had promised for the contemplated expedition thither, a council of war, presided over by Colonel Partridge, decided that no better measure could be taken "for the improvement of our forces for her majesty's service" than to march to Cowassic a body of five hundred men, besides the Mohegan Indians under Whiting's command. The following extract from a letter¶ written by the latter to Governor Winthrop shows that a considerable portion of his recent reinforcements had been called off, and that, therefore, he had sufficient cause for apprehension that a diminution of the forces in northern Hampshire would inevitably be followed by irretrievable disaster: —

"Honorable Sir, — Mr Saltonstalls letter of the 24th current read on the 26th, and according to your Honours direction we reinforce'd by Capt Wells wth 60 men. Have just now received orders from the Comitty of Warr for his drawing off: shall therefore dismiss him to-morrow. On the 25th instant came in hither 80 men from Boston, and Cap^t Colton wth

* *New-York June 12. [1704]. . . . We hear 500 French and Indians are Marched from Canada, to attack some parts of New-England . . .* — *Boston News-Letter*, No. 9.

† See notes to chapters 53, *ante*, and 81, *post*.

‡ Documents relating to the history of New France now rendered accessible to the public, through the wise liberality of the legislature of Quebec, show that an expedition on an unprecedentedly large scale was preparing to start from Montreal by direction of Vaudreuil. On the twelfth of May Beaubien and on the thirteenth of June Vaudreuil held conferences at Quebec with different tribes of New-England savages — the latter avowing his desire to enlist the savages against New England. According to the statement of the deserter (Winthrop Papers, part V., p. 245), this army moved, on the fifteenth of June, by way of Cowassic. Vaudreuil had assured the savages who had responded to his call that he had already two hundred men enlisted, and urged them to abandon their village at Cowassic, and come to reside in Canada. — "*Documents*," etc., II., 411, 416.

§ On the nineteenth of June the following item appeared in the *News-Letter*: —

"*New-London June 15. . . . On Tuesday Marched Capt. Samuel Eells of Milford with 100, men to Reinforce, Major Whiting at N. Hampton. This is the 21st. day of the Enemies French and Indians March from Canada, as we are informed.*" — No. 9.

|| Approximately, and in round numbers, the population of Connecticut at that time was 25,000, while, on the same basis, the population of Massachusetts, including Maine, was not less than 83,000; but Dudley, writing to Winthrop, March 24, 1706-7, says "It is in everybody's knowledge that Connecticut was always above half in proportion to the Massachusetts."

¶ Dated Northampton, twenty-eighth of June, "*about 9 at night.*" — Winthrop Papers, V., p. 233.

100 from the lower townes of this county, who will likewise draw off to-morrow; they can by no means be delay'd. Since we make no discovery of the enemy our people grow impatient, and from thence conclude there is no approaching danger; for my owne part I verily conclude they will be here ere long." — *Winthrop Papers, part 1, p. 233.*

On the third of July an intercepted letter "from a gentleman in Canada to a gentleman in Port Royal" was published in the News-Letter, in which not only the departure, "since the last fall, . . . of several parties of French and Indians . . . against the English" was mentioned as a matter of common knowledge, but the condition of Canada was represented as so miserable that the inhabitants "must absolutely abandon it before two years, or God must work miracles to preserve it." This presented the category of actual or threatened famine as an inducement to further depredations on the well-stocked barns and granaries of New England. On the eighth Colonel Schuyler gave notice that a large force of the enemy had set out from Montreal. The tidings reached Boston by the twelfth, as the following entry in the executive records of the council shows:—

"His Excellency communicated to the Council a letter from Lt Col. Partridge, with one inclosed of the 8th currant from Col. Schyler at Albany having lately been in the Indn Country confirming the Intelligence of a Body of French and Indians to the number of near eight hundred set forth from Mont Real for New England." — *Vol. 4, p. 41.*

Fresh reports of Indian outrages accompanied these rumors. As, previous to the attacks upon Deerfield and Pascomuck, assaults by the enemy had been reported from western Maine, New Hampshire and the valley of the Merrimac, so now the News-Letter of the first week in July reported the appearance, on the fourth, of eight Indians near the garrison at York, and of their endeavor to capture, presumably for the purpose of obtaining information of the strength of the frontier posts, and of the disposition of the English forces, one who had ventured outside its walls.

About three weeks later, more conclusive evidence of the near approach of the enemy came by way of Deerfield. This was the report of a deserter from the army of the Sieur de Beaucourt, which had been slowly moving down from Canada by way of Lake Champlain and the Connecticut valley, in the course described in the note to resolves, 1705-6, chapter 26. Beaucourt led the second and by far the more formidable of the two expeditions against Massachusetts, that had been planned by Vaudrenil, and are mentioned in that note.

The intelligence of Beaucourt's movements, which had been first obtained by the Mohawks and communicated from Albany, was corroborated by an unexpected witness in the manner described by Whiting in the following letter to Governor Winthrop, in which he also gives the witness's account of himself and the measures taken to test his credibility:—

"N: HAMPTON, July 28th 1704.

Honorable S^r,—I presume the intelligence brought us by a Frenchman on the 23. inst has been long since sent to your Honour. On the 24th the man being brought hither upon further examination confirms the acct he gave at Deerfield, viz^t that they came out of Mont Royall wth 340 Indians and 140 French, under command of Sheualeir Bocorr, that they had been out one month and eight dayes, and that they left their first canoes w^{ch} they came out in at a small fort standing upon a river coming out or running into the lake on the other side the mountaines, at w^{ch} fort there is 5 Frenchmen, besides 9 Indians they left wth their canoes, and that the signe to be given at their retourne thither is a leaf in each mans mouth; from which place they traue'l'd seven dayes over the mountaines ere they came to Connecticut Riner; that upon the 22^d instant about nine in the morning they lodg'd their canoes three mile above the West River and march'd from thence toward the mountaines; before noon he deserted from the rear of the army when they had march'd about three miles from the canoes; from thence he shap'd his course downward, but coming to the West River chanc'd to meet wth one of their scouts of whom he enquired the way after the grand Armado; they directed him up that river, by w^{ch} means he would certainly cross their tracks; accordingly he went up the river untill about three afternoon, then altered his course agen and in some time fell upon our road to Deerfield, where he arriv'd the next day about ten in the morning, when firing his peice alarm'd the garrison, who seing of him call him to them, to whom he made his honour and gave y^m an acct of an approaching enemy, w^{ch} was posted to Col. Partridge and from him to me, and from me to Hartford the same day. He also informes me that he is a native of France, borne in Languedock, came out of that country to England wth his father and mother when he was about twelue years old, and that he hopes his parents are still there. Some time after went in to Holland, from thence back to England wth the Prince of Orange, and thence into Ireland, and thence into Flanders, where was taken a prisoner, there remain'd one year; for his engaging in the English intrest was sent a servant to Cannada, where he has been this five years, not emprond as a soldier but at his occupation, that is baking bread, and now comanded on this service; that there is one more Protestant in the army, to whom he did not communicate his intentions. The reasons that perswaded him to this undertaking were these: the abhorrance he hath to their religeon and practices, the hopes of gaining his owne libertie, his affection to the English intrest, and to prevent our destruction. The acct given by the Maqnaw and this from the Frenchman agrees in enery step as to their motions from Canada hither; the people are differently perswaded about him, the generallity think him upon designe; for my owne part, I can't conceive of their pollicie in giving us this notice, time must determine; however, haue secur'd him in chaines. On Munday and Tuesday last we were in hourly expectation of them; on Tuesday a small party discovered them selves to the garrison at Hatfield. Our scouts haue been out daylie 10. 15. 16. 18 miles westward; from Deerfield yesterday about 12 miles; no discovery made. The deserter still stands to his first information and observes thus, his leaving them put them upon altering their course, (its possible); however, offers to go wth the scout now ready to march for the West River upon that discovery, and in case they find it not true he submitts himselfe to loose his life; yet have not thought it convenient to

venture him. Since the place he mentions where the canoes ly is so notable, we conclude they may be found; 20 men under command of Leint Benja Wright, who are directed to make a certaine, possintie and speedy discovery of the truth hereof, just gone. He can give us no acct of Coasset, as we can understand. I am very willing to gaine a certaine knowledge of the truth of this newes ere Capl Wells returns. Capl Ally is drawn back to his post. Another scout of four men gone away northwest as far as they can to-day and part of too-morrow, then returne, in case they discover nothing before. I am inclined to think the enemy are in our quarters; we have posted the intelligence to Boston lest the enemy shape their course eastward. I have not further at present worthy your notice; shall advise you of all matters of moment; haue delay'd now in hopes of making a certaine acct of the enemy,

St,
Your Honours most humble servant,

WILL: WHITING." — *Win-*

throp Papers, part V., pp. 244-247.

The committee on the publication of the Winthrop Papers append the following: —

"NOTE. — Fitz-John Winthrop filed with this letter two others, addressed by the same writer to the Committee of War on the two following days. On the 29th Major Whiting wrote: —

'Yesterday ere they went seven mile from towne to the westward our scout heard a gun, and in some short time saw a young beast coming towards them wounded in two places, whereupon they return'd hither, advising us thereof. Upon w^{ch} immediately we dispatch'd 20 men on horseback to y^e place, under command of Capl Hollister. They found the steer, but noe signes of the enemies being there, altho we conclude their scouts made the shot. This morning we sent out another scout with possitive charge to take a large extent; more-over twenty of our Indians w^{ch} two Englishmen have been ranging seven or eight mile westward and northward, who are return'd w^{thout} any intelligence. The Frenchman (Peter Newgate, in English) is pleasant under his chaines and still is stedfast in his affirmation, and much admires they make not their assault, since they had scarcely three dayes provision when he left them. He gives me something new upon every examination, discourseing with all imaginable freedom. They have three fryars with them and about 20 boyes wth bows and arrows; that they have no permission to make spoyle on Albany, but any part of New England, internatiung a truce between Canada and Albany.'

On the 30th Major Whiting wrote: —

'Our daylie scout about the towne found another beast wounded in the woods. Just now came in our scout from the West River, who confirms the acct brought us by the Frenchman. About four mile above the river they came upon the track of the enemy, very plaine and large, bending to the westward, w^{ch} they followed for some time, when they discern'd they had return'd in the same road. Our people came back also to the great river, where they found the place they had laid their canoes, but had taken them all away save one and passed over Connecticut River and landed agen in a meadow on the east side, halling up all their canoes, all but two w^{ch} they left at the shore side. Our men not judging it safe to swim over to make further discovery, return'd wth all speed. We are ready to beleave that the Indians belonging to the canoe left on this side are those that make spoyl upon our cattle. Its most probable this man deserting from them has been the means of altering their mesures. We shall strengthen Hadly wth all speed and hold a councill of warr to-morrow morning to concert the most proper methods to be taken for the destruction of the enemy. If we draw off our whole forces and march up the river, we shall leave the townes naked. We are not certaine but they may still come downe on this side the river. Shevalier Bocoor, their generall, is an experienced comander and will improve all his French pollicie to trappe us.'" — *Ibid.*, pp. 247, 248.

In another letter, not dated, but probably written on the first of August, Whiting recapitulates the substance of the last two letters above quoted and informs Winthrop that the enemy had "return'd from the westward and pass'd ouer Connecticut Riuier just across. This intelligence we gain'd on the 30th instant at night."* He then adds that a council of war, presided over by Partridge, was held at Hadley the next day, which, after disconsenting and rejecting first his own proposal to march their entire force in pursuit of the enemy, next a proposal to "encamp in the field, that being in a body we might the better march to the reliefe of any place where the attack should be made,"* and then several "other things" that "were offer'd . . . at length thus agreed and concluded *namine contradietorie*, that our scouts should be continued every way, and especially one from Deerfield to goe in Albany road 25 or thirty miles westward, whereby certaine discovery may be made whether any part, or the whole, of the forces was come below that line; as likewise another from Hadly 25 or 30 miles towards Lancaster, to make the same discovery; and that every comp^y remaine at their respective posts untill further order or some discovery of the enemy be gain'd, then to march wth our whole strength; in mean time to assist the inhabitants about their harvest, wherein they have made some considerable progress."* He then proceeds, "This St, was thought to be the most proper method to be us'd for the publique safety. On the 30th instant, about one in the morning, four men travelling between Hadly and Springfield were shot at by five Indians, slitley wounding three of them. Capl Colton was immediately dismist from Hatfield, and all our men in a readiness to march to their reliefe in case any body of the enemy had been there. . . . We haue just now detach'd 30 men for another scout to the West River to follow the tracks and make what discovery they can. We are in hourly expectation to hear of them either by our scouts or that they make an onsett somewhere: am very desirous to try my chance wth them in the field, but when that matter shall be determined, shall sollicite your Honour for a release from my post."*

As stated by Whiting in his letter of the twenty-eighth, intelligence of the deserter's account of Beaucourt's movements was promptly posted to Boston,† and Dudley as promptly

* Winthrop Papers, part V., pp. 249-251.

† *Ibid.*, p. 247.

took measures to concentrate his forces at points from which the garrisons along the Merrimac and its southern tributaries could be conveniently reinforced, and the enemy attacked and pursued to advantage. The Governor's own statement of his doings is given in the following letter to Governor Winthrop:—

"BOSTON, ult. July, 1704.

Sr, — This morning before day a considerable number of the enemy set upon Lancaster in the county of Middlesex, where besides the inhabitants I have a company of musqueteers, & presuming upon the notice given by the French deserter at Deerfield that the enemy would give me the go-by there, I had ordered two hundred men more to the s^d Lancaster on Saturday evening, who I hope will be there this evening, & God can give us success if he pleases. That I pray of you now is immediately to direct your forces upon the frontiers to march into the woods upon their track and lay wayt for them in their return; they cannot be above 200 men, so that the force at Hadly must needs be enough to meet them. I have no notice but of an half hour of their assault of the first garison next the woods; what impression they may make I know not, but have within the line the great towms of Concord and Sudbury all ready to march and gone before this time; but doubt not they may be intercepted weary in their march homeward, & it is impossible to miss their track if you cross to the northward. I have no opportunity to Hadly; if you please to express this letter to C^d Partridge, let him march of company in the county what he can possibly in this conjuncture, & this is his order for the same.

I am Sr your humble ser^t,

J. DUDLEY." — *Ibid.*, p. 248.

The force sent by Dudley appears to have been a body of troops from Suffolk County. They were led by Major William Tailer, a young gentleman twenty-eight years of age, afterwards distinguished as lieutenant-governor of the province.

The northern company of the Middlesex regiment, under command of Lieutenant-Colonel Tyng of Dunstable, was needed to man the numerous exposed fortifications. It would have been extremely imprudent in the face of an insidious foe quick to take advantage of every mistake, to weaken the garrisons by marshalling in the field the companies detailed for service at the several fortified posts. Nevertheless it was important that the enemy should be not only resisted but pursued, and therefore Tailer, on the tenth of August, at the head of his troops, and accompanied by a body of infantry, marched against them from the east, while from the west, Major Whiting's men under Captain Livingston and Lieutenant Minor moved from the Connecticut valley to interrupt the enemy's homeward march. The garrisons at Northampton, Deerfield, Hadley and Hatfield were reinforced and kept in communication with Colonel Partridge, in command of the active forces of northern Hampshire.

On the fourteenth Dudley apprised Governor Winthrop of Tailer's expedition in the following letter:—

"BOSTON, 14. August 1704.

Sr, — I am glad of the health & welfare of your forces. If the scout that first saw the whole number of canoes had destroyed them, we had been now certain to have spoken with the enemy in their return. Major Taylor with six good companies horse & foot is in the forrest towards Conecticut River after them; went out with hopes to meet your forces in the woods, set out on Thursday last, hope he may hold out ten or twelve dayes. Inclosed is copy of a letter from the Governour of Qnebeck to the Governour of Port Royall, gives you a schem of their intention & our expectation. I wish your health better than my own, and am Sr,

Your very humble ser^t,

J. DUDLEY." — *Ibid.*, p. 257.

Meanwhile tidings of military movements at the westward were thus published in the News-Letter:—

"*New-London*, Aug. 9. [1704.] On *Thursday* last marched from hence Capt. *John Livingston*, with a brave Company of Volunteers English & Indians, to reinforce the Frontiers." — No. 17.

"By letters from Col. *Partridge* acquainted, That Capt. *Allin* & his Company, in passing from *North-hampton* to *Westfield*, to reinforce Major *Whiting*, The Enemy from an Ambuscado fired upon their Scouts, kill'd one man, & took two Prisoners, one whereof was wounded: The Company hearing the Guns, immediately turned out of the Road into the bushes, & had a small skirmish with the Enemy, kill'd 2 Indians, rescued one of our Prisoners, & took 5 or 6 Guns, & 9 or 10 blankets from the Enemy." — *Ibid.*

On the fourteenth of August * Major Whiting wrote to Governor Winthrop, apparently from Hadley, giving details of the progress made on the left bank of the Connecticut in the attempt to ent off Beaucourt's retreat. This letter gives such a graphic picture of the hardships of the pioneers at Deerfield, and shows such noble traits in the writer, that it has been deemed proper to insert all of it here, save the opening sentence; viz.,—

"During our stay there our time was improv'd in assisting the inhabitants about their harvest, cutting downe in three dayes between three & four hundred bushells of corne. On Wednesday ye 9th instant I sent a scout back to y^e West Riuer to se whether any of the enemy had been upon our tracks, as also to seek for some horses we left there; they return'd wthout any discovery made, only brought in 4 horses. The same day also we sent another scout, consisting of six Indians and two English men, to the westward 12 or 14 miles, who return'd wthout any intelligence. On Thursday the 10th, about 11 at night, came hither Capt^t *Allyn* wth letters from your Honour to Col. *Partridge* and Capt^t *Livingstone*,† directing to a further pursuit of the enemy on the east side Conecticott Riuer, and to joyn wth Maj^r *Taylor* in that service. Early y^e next morning considered what

* Erroneously surmised by the editors of the Winthrop Papers to have been written in July, instead of August, 1704.

† John Livingston.

measures to take pursuant to the said order; it was resolv'd best to returne to Hatfield to enforce our men and procure necessary provisions for our subsistence &c. Immediately thereupon we drew off, and at Hatfield held a further consultation, Col. Partridge being present. It was then concluded to detach 200 men, including Capt Levingsons comp^y, and the next morning march towards Wachusett Hill in search of the enemys tracks; but before we departed the house, came in an express from Boston wth l^{rs} from Mr Secretary Addington w^{ch} inform'd Col. Partridge that the enemy on y^e 8^o instant were still hovering about Groton, and that Maj^r Taylor was then ready to march wth a force of between 3 and 400 men in search of them. We still resolv'd to put our determination in execution, in order whereto Capt Levingson mov'd over to Hadly this night, Capt Allyn and my comp^y to North Hampton. The next morning early we detach'd our men and march'd to Hadly, but by the imprudence of the inhabitants of that towne trading wth one of the Indians for his gun, (whereby he procur'd sufficient mony to make a great part of his companions drunk, whereby our whole designe was frustrate,) the Indians would by no means be perswaded march into the woods, but would returne home. Eleven of them gate away privately and went homeward; we were forc'd to waite the returne of their reason. This morning we concluded to detach forty men under command of Lein^t Minor to joyn Capt Levingson and that they should march to Wachusett or that way, and in case no discovery of the enemy our scout to returne in four dayes & Capt Levingson to continue his march to Woster, Oxford, New Roxbury, Canterbury, & so to Norwich, to w^{ch} the Indians consented. A copie of his instruction have enclosed sent you. And whereas Lein^t Wells is disabled by sickness to proceed wth the comp^y, have therefore ordered John Ashcraft to take the Lein^ts post during this expedition; have likewise transmitted a copie thereof herewith. We were ready to conclude that our marching so long after would be bootless, but are preparing bread in case we should receive any further intelligence of the enemys motions, that we may be ready to march upon y^e first intimation thereof. Sr, in yours to Col Partridge you are pleas'd to give positive order that Capt Newbery be drawn off within eight dayes, but have not directed by what means the garrison shall be supported, whether by our men or by some from this Province, altho I conclude your Honour intends they be reforc'd by this Govern^{mt}. If our men draw off before a fresh supply the people will likewise draw off, and thereby the whole interest be lost, w^{ch} will greatly encourage the enemy, and a place of considerable importance be abandon'd to their fury and rage. Col. Partridge did upon our coming from Deerfield send express to Govern^{mt} Dudley to signifie to him your Honours determination therein and to express an answer on Wensday next. Sr, our people are importunate to go home. I am not capable of giving y^m answer untill your Honours further pleasure be known. The defence of the frontiers is in my opinion (wth submission) a matter of great importance. Their sufferings will weaken us; if they are not enabled to provide for the winter they must draw in and thereby we shall be expos'd. It has pleas'd the Almighty to spare them in defeating y^e designs of our enemies, in which mercy we partake very largely. I pity their forlorne state, being every houre expos'd to the incursions of a merciless enemy. These things Sr I account my selfe in duty bound to lay before your Honour, altho I question not but they have frequently been the subject of your meditations. I have one request to ask for my selfe, or to refresh my former of the like nature, that is, to be released from my post, especially since I can be no wayes servicable to my country herein. I pray your Honour to consider it, and if the state of my owne affairs be not sufficient to prevaille, let the generall good be so farr consulted as to supply the post wth another. Capt Levingson gives his duty to your Honour upon his departure from Hadly this morning, cheerfully undertaking this enterprize; all things succeeding will be at New London by Saturday night next. I shall not trouble your Honour further, altho there are many things worthy your notice might I be fauoured wth an opportunity to lay them before your Honour. Plesse to forgive my failings and be assur'd that I am Sr your Honours most humble and obedient servant,

WILL: WHITING." — *Ibid.*, pp. 241-243.

This was followed the next day by another letter to Winthrop, which furnishes the only evidence found, thus far, of the date of Tailor's return to Groton. The extract given below shows Whiting's good judgment in endeavoring to have his men relieved by fresh detachments, or companies of volunteers:—

"NORTH HAMPTON, Augst 19^o 1704. a.m.

Sr, — I wrote your Honour yesterday, since which an express from Boston with l^{rs} from Governer Dudley to Col. Partridge signifying Maj^r Taylors returne on y^e 15^o instant to Groton after five dayes fruitless persute of the enemy, & concluding their returne; in w^{ch} there is this passage inserted: 'I very well know the Govern^{mt} of Quebecs power and resolution, and that there is no other force than this in the woods, and these must returne before any other go out. I hope your forces will keep the forest to find the enemy in their returne, or to see them well homewards, that you may be at quiet from any thing but small parties of skulking rogues, of whom you must take care by your good watches & small scouts.' As to the relieving our people at Deerfield he is wholly silent. Divers of our men in the severall townes are vissited wth malignant feavers, some hazardus and others newly taken; some wth the bloody flux, w^{ch} I hear of just now from Hatfield. Dr Hastings is now wth one Bissell of my comp^y who is in a dangerous state; thought best to advise you hereof. . . . many in each comp^y labour under extream difficulties in their stay, being so farr beyond their expectation in voluntarily offering themselves in hopes of a speedy encounter wth the enemy. I have no other way to pacifie them but by laying the case before your Honour. We have 40 men ready to march, under com^d of Lein^t Marsh, up the river, but the raines prevent; must delay untill Munday morning early. Our scouts that take not so large an extent are dayly out." — *Ibid.*, pp. 258, 259.

By this time it was certain that the enemy were completely foiled. They came, it would seem, poorly provisioned, intending to forage upon the English for their subsistence. In this as well as in surprising the garrisons they were wofully disappointed in every direc-

tion; and, baffled and discouraged, they returned through the wilderness to Canada, totally demoralized, many of them fatally sick, appeasing their hunger by devouring horses when they were fortunate enough to find any, and the bark of trees.* Beaucont himself was greatly dispirited by his ill-success, which was attended by a severe illness. If the report of a Mohawk Indian who professed to have been at Canada when "the last five hundred [the remnant of Beaucont's army] returned thither" may be believed, that unfortunate officer suffered a humiliation far more poignant than any mere physical distress. His story was that "Boucoor was put in the dungeon, where he remain'd three dayes, then brought forth and degraded, his sword taken from him, and the Monseir Intendant publicly resolving to march himselfe the next descent."†

On the twenty-first Whiting wrote still another letter to Winthrop, the following extract from which contains apparently a candid statement of the reasons which induced the enemy to abandon the object which they set out to accomplish:—

"N: HAMPTON, Aug^t 21st 1704. a.m.

HONORABLE SR, — I wrote you on Saturday last by Lein^d Munison, since which by express from Albany we are inform'd of Col Schuylers returne from the Indian country . . . He refers us to the bearer of newes who gives this acct, that the Colonell met wth three Indians in the Maquaw country that did belong to the French army form'd against us, who gave these reasons for their coming thither: 1. The scouts they sent to view our quarters gave them this acct, that we were upon our guard, our frontiers well cover'd with men, that they were as thick as the bushes; w^{ch} put them under great consternation, how-ever thought them selues oblig'd in point of honour to proceed, altho at the greatest hazard. 2. When they were sensible one of their comp^a had deserted, they were confounded and discouraged, immediately resolving to returne and accordingly did from their second lodg; only four score of them went to the eastward, hoping to surpriz some townes on that side, w^{ch} I suppose were those that assalted Lancaster; these there parted from y^e army and returned that way." — *Ibid.*, p. 259.

In the face of this incontestable evidence of the ignominious failure of this expedition and of the unsoldier-like improvidence with which it was undertaken, the audacious suppressions and misrepresentations of Vandrenil and Beauharnois in their account to Pontchartrain, from which the following is taken, afford a striking illustration of the manner in which, in important affairs of state, the French ministry were deceived by the local managers of colonial government:—

"Our Indians established in the government of Montreal, who had accompanied the Winter expedition last year under Sieur de Rouville, having recovered from their fatigue, asked M. de Vandrenil early in the Spring that they may form themselves into small detachments against the English; the Chiefs having requested him not to separate their forces, and to form rather only one party with which they could undertake something considerable, obliged us, My Lord, to enter into their sentiments, for divers reasons. The first is, that not being certain but the English would make some movement, it would be painful to see all our Indians scattered; the second that not having it in our power absolutely to stop them, by organizing a large corps, we should gain time so as to be able to receive news from Europe; and the third, My Lord, is that to which Sieur de Vandrenil attached most attention in the present situation of affairs—that is, by having a considerable body of French and Indians at Montreal, he was keeping the Iroquois in check in respect to the resolutions they might adopt at their general meeting against us.

The length of time, My Lord, that was required to assemble all these Indians, afforded an opportunity to the enemy to have notice of it. We were aware of it, and our Indians having persisted in the design of going to destroy [‡] an English Village, we did not consider it right to oppose them; we merely counseled them to change their project, and in order to induce them to do so, Sieur de Vandrenil gave them Captain de Beaucours as Commander with one hundred or one hundred and twenty-five Frenchmen and several of the activist of the young officers. The party consisting of seven @ eight hundred men, we believed, My Lord, that it would be competent to attack whatever posts and villages they pleased, and as Sieur de Beaucours had orders to propose, on the height of land, to the Indians to change the design as to the place they wished to attack, of which possibly the enemy might have notice, we regarded as certain the success of his expedition, which indeed would have been the case, My Lord, had a soldier not deserted within a day's journey of the enemy; a panic hereupon seized the minds of our Indians to such a degree that it was impossible for Sieur de Beaucours to prevent them retreating." — *Documents Relating to the Colonial History of the State of New York*, vol. IX., pp. 763, 764.

They then proceed, in the paragraph quoted in the note to chapter 35, *ante*, to state the cost to the English of this expedition from data obtained by them, as they say, from let-

* "There was about 600 French, and Indians of near equal number in the Expedition to Lancaster last year, many of whom dyed in their return, and several since, they were almost Starved, and constrained to eat the bark of Trees: Their chief Commander continues yet ill." — *Intelligence From Quebec, brought by messenger Hill, May 4, 1705.* Boston News-Letter, No. 56.

† Letter of December 5, 1704. Winthrop Papers, part V., p. 275.

‡ This blank is in the report as printed among the New York Documents. The place intended has been generally believed to be Northampton. But if the surmise is correct that the party against whom the Indians sought revenge was the company led by Captain William Tyng, the previous winter, as mentioned in the note to resolves, 1704-4, chapter 85, it is more likely that the place the Indians wished to destroy was Chelmsford, — where Tyng seems to have been stationed about this time, and which town he represented in the Legislature of 1707 — or Dunstable, the home of his father, or some other settlement, on or near the Merrimac, which had contributed to his quota of volunteers. This opinion receives support from Rev. Mr. Williams's statement that the perpetrators of the outrage at Pascomuck, who seem to have been in pursuit of the same object, had "been to Merrimac River, but met with no success: they then directed their course towards Westfield," etc., — showing that in his opinion the selection of Pascomuck was accidental. See note to resolves, 1705-6, chapter 26.

ters * taken from messengers killed while conveying the same to English "villages and forts."

It is difficult to reconcile the different estimates of the number of Beancourt's army, or, rather, with any regard for the intelligence and honesty of the narrators, to account for their discrepancies. Perhaps the most plausible explanation is one, which, inclining to the average number, admits the possibility of increase and decrease while on the march from, and return to, Canada. This requires that credence be given to the circumstantial statement of the deserter, Newgate, as to the number that actually left Canada. It is possible that this number was increased by accessions before reaching Lake Champlain and at Cowassic, and further on, from Pennecook and western Maine. All the reports give sufficient evidence of the sudden diminution, if not collapse, of the main body by their disagreements as to their objective point, and to the temptation to which the Indians freely yielded to scatter in small parties in quest of scalps and plunder. It seems pretty certain that those who made the furious onset at Lancaster were comparatively few. It is to be observed that Whiting supposed that not more than eighty were engaged in that attack; but a line of battle long enough to advantageously reconnoitre all the towns on the border of Massachusetts from Groton (if not from the mouth of the Merrimac) to Deerfield could not be very formidable at any one place, even if composed of the largest number given; and the preparations of the inhabitants at every point rendered such a reconnaissance necessary.

The first contemporary public notice† of the attack on Lancaster appeared in the Newsletter issued on the seventh of August, as follows:—

"On Monday Morning past, The Enemy French and Indians, fell in upon *Lancaster*, about some four hundred of them, assaulted Six Garrisons at once, where the People defended themselves very well; until assistance came in from all parts by the Governour's Order, so that in the Evening, there were three hundred men in the Town And the Enemy was beaten off with loss, but are yet hovering on the head of those Towns, to make some further Impression, if not prevented."—*No. 16.*

In his opening speech to the Legislature in its second session, August 16, 1704, Dudley thus referred to the repulse of the enemy:—

"You are further sensible of the Inroad made upon us at Lancaster by about three hundred french and Indians, where by the favour of god we were so ready for them that we have Lost no garison, & our force has prest upon them so early & so dilligently that they are Marcht off after a Two Months Expedition without any further Triumph then that of three or four Children & The force there, of about three hundred men under Major Taylor was yesterday ‡ also disbanded, saving what are necessary upon the fronteirs of Middlesex to assist the Harvest."—*Mass. Archives, vol. 108, p. 21.*

Apparently the best account§ of the attack of the enemy on the town of Lancaster and of the repulse is the following, by Rev. Timothy Harrington, who, fifty years later, was a settled minister in the town:—

"... In 1704, there came an Army of seven Hundred French and Indians from Canada — with *two Tribes*, under the Command of *Monsi. Boocore*, design'd for *Northampton*, — but a Deserter came and gave Notice of their Numbers and Approach. — And those Western Frontiers were seasonably strengthened. —

Moreover, in their March there arose a Mutiny among them about the Division of the Plunder; and the Contention rose so high, that *above two Hundred* of them return'd — But the Rest came on, and sent out their *Scouts*, who reported, that the *English* were ready in great Numbers to receive them. — On this they call'd a Council of War, in which they concluded to lay aside the Design on *Northampton* — and to beat up for Volunteers, for the Assault of *Lancaster*; and a large Number enlisted. —

And on the 30th of *July* they came within about *two Miles* of the Town — and encamp'd, and by Night sent in their Spies to observe the Posture of the *English*. — And on the 31st, they fell furiously upon the Town early in the Morning; and in their first Onset kill'd Lieut. *Nathanael Wilder*, near the Gate of his own Garrison. — And the same Day *three* others near the same Garrison.||

The Enemy were uncommonly brave: and therefore altho' Capt. *Tyng*, who had the Command of the Garrison Soldiers; and Capt. *How*, who on the Alarm, march'd immediately from *Marlborough* with what Men he cou'd suddenly raise; and the Inhabitants maintain'd a warm Dispute with them for some Time; yet being much inferior in Number were oblig'd to retreat into Garrison. — On which they burnt the Meeting-House, and six other Buildings, & destroy'd much of the live Stock of the Town.

* Hon. George Sheldon states that the despatches carried by Thomas Battis, called "Bettees" in the petition of Samuel Barnard (whose horse he rode), were the "letters" referred to in this account. — History of Deerfield, etc., in Greenfield Gazette and Courier, No. 36. See note to resolves, 1705-6, chapter 14.

† The following memorandum by Sewall in his diary, respecting his journey through Dedham to Medfield, shows the impression made on him as to the extent of the enemy's field of operations:—

"July, 31, 1704. . . . Call at Capt. Mors's about an hour in night; and he tells us of the Indians harrying Lancaster. This was very heavy News to us now in a Frontier Town; yet we went on, lodg'd at cousin Gookin's and were kept safe." — *Vol. II., p. 114.*

‡ Taller's pay-roll was made up to the seventeenth. — Executive Records of the Council, vol. 4, p. 122.

§ The narrative of Penhallow, of whom Mr. Harrington in his Century Sermon says, "Some of the Accounts which Mr. Penhallow hath given of the Mischiefs done in this Town by the Enemy, are in diverse Cases not only imperfect, but very *Erroneous*, which are doubtless owing to the wrong Information he had," contains the following, in which he mixes the attack on Lancaster with the subsequent attack, when Groton suffered:—

"And yet a little while after they fell on Groton and Nashua, where they killed Lieut. Wyler [Wilder] and several more." — *Indian Wars, p. 35.*

|| "Abraham How, John Spaulding, and Benjamin Hutchins."

Note, What Numbers of the *Enemy* were kill'd, either in the Field, or at the other Garrison is uncertain, but is tho't to be considerable — among the Rest a *French Officer* of some Distinction, was mortally wounded, which greatly exasperated their Spirits:

Before Night there came such Numbers to the Relief of the Town, that the *Enemy* retreated; and altho' pursued, yet *were* not over-taken. Had they like those in 1697, tarried till the Inhabitants, were dispers'd to their Labour, they might in all human Probability, have done much greater Mischief, if they had not entirely destroy'd the Town. — But God had Mercy on his People." — "*A Century Sermon Preached at the First Parish in Lancaster, May 28, 1753,*" pp. 19, 20.

Besides the regular garrison under Captain Tyng and the company which he led out against the enemy the efficient force directly employed in the defence of Lancaster was the militia company commanded by Captain Thomas How* of Marlborough, and for this service he applied for compensation in the following petition, mentioned in the preamble to this chapter:—

"To His Excellencie Joseph Dudley Esqr Cap^t Generall and Governour in Chief in and ouer Her Majties province of the Massachusetts Bay in New England &c^a and To the Honourable Her Majties Councel, and Representatives in Great and Generall Court Assembled. 9^{br} 8th 1704

The Petition of Thomas How of Malburrah in the Behalf of him self & Company Humbly sheweth

That Whereas, at the time that Lanckister was assaulted by the french and Indian enemies, your petition^r and company (to it^t) about thirty, did emedately Issue out, and were a means vnder God, to preserue many persons lues & Estates, in s^d Towne; wth the loss of two men of said company, and defended s^d Towne from the Insults of so cruil and barbarous an enemy, And after w^{ch} There was found on the spot where seuerall barns were burnt, the bones of sundry of the enemy y^t were slain by your petitioner & Company, beside many more supposed to be wounded, w^{ch} the enemy drew off, and altho your petitioner & Company recouered no scalps, Yet being very cleer & plain (to it^t) of the enemies being slain as afores^d your petitioners; do Therefore pray that your Excellencie, & Honours would please to consider the premises, and Grant them such compensation as in your Wisedome shall seem mete —

And Yo^r Petition^{rs} shall as in Duty, pray &c^a

THOMAS How for him self & Comp^y. — *Mass.*

Archives, vol. 30, p. 498.

This petition was read, first, in the House, on the eighth, on which day the resolve which constitutes this chapter was passed and sent to the Council for concurrence. On the tenth it was read in Council, concurred in, and consented to by the Governor.

The order in Council[‡] for the payment of the allowance granted by this chapter was passed November 20, 1704, and by the province treasurer's account[§] it appears to have been duly paid.

Chap. 72. This chapter is from council records, vol. VIII., p. 85, and archives, vol. 71, p. 91.

The petition mentioned in the preamble to this chapter is as follows:—

"To his Ex^{cy} Joseph Dndly Esqr Gou^r and y^e Hon^{ble} Council and Reprsentatiues in Generall Court assembled in Boston Nou^{br}. 9th 1704—

The Petition of Sam^l Blunt of Charlestowne Waterman humbly sheweth—

That where as yo^r petition^r in y^e time of Coll^o Romers managing the affaires respecting y^e fortifications on Castle Island, did according to order Transport sixteen Thousand of Bricks to said Castle, for which there doth Continue Due to him Two pounds and sixteen Shillings,

Yo^r petition^r therefore humbly Prays yo^r Exe^{cy} & Honors, that he may be releined and have an ord^r upon m^r Thomas Brattle, Concerned in y^e affaires of y^e s^d Castle fortifications who knows the truth of y^e above written petion, that he may pay y^e Same." — *Mass. Archives*, vol. 71, p. 91.

This petition and the following certificates which were filed with it fully explain the resolve:—

"This may certifie whom it may conserne That ther was the boatage omitted of 16 thousand of brick caried by Samll bluntt for her magests castle ner boston which coms to two pounds 16 shillings at 3 shillings 6 pence per thousand which was done by order: as witnes my hand

STEPHEN FRANCIS

I underwritten do also Certifie to y^e truth of w^t is abovewritten, viz^t that there remains due to s^d Sannell Blunt two pound sixteen shillings, for boatage of y^e aboves^d bricks

Novemb^r. 8th 1704

T. BRATTLE." — *Ibid.*, p. 92.

The petition was read in the House on the ninth, when the resolve which constitutes this chapter was passed, and sent to the Council for concurrence. On the following day it was concurred in, and consented to by the Governor.

Chap. 73. This chapter is from archives, vol. 62, p. 487. It is recorded in council records, vol. VIII., p. 85.

The order which constitutes this chapter originated in the House, where it was passed November 9, 1704. It was concurred in by the Council and consented to by the Governor on the tenth.

* How was a prominent citizen of Marlborough, for many years representing the town in the Legislature, and a justice of the peace for Middlesex County.

† To wit?

‡ Executive Records of the Council, vol. 4, p. 110.

§ *Mass. Archives*, vol. 122, p. 232.

The law which provided for the repayment of the impost on wines found to be decayed at the time of landing thereof, or within twenty days afterwards, was the temporary act of 1701-2, chapter 16, § 6, the provisions of which were revived and continued by the acts, 1702, chapters 1 and 7, 1703-4, chapter 4, and 1704-5, chapter 6,—the last expiring June 29, 1705. More than twenty days having elapsed after the petitioner imported his wines before he found an opportunity to examine them, it was too late for him to claim repayment from the commissioner, and the only chance for relief was by applying to the Legislature.

Chap. 74. This chapter is from council records, vol. VIII., p. 88, and archives, vol. 113, p. 362.

The representation referred to in the preamble to this chapter is as follows:—

“To his Excellency Joseph Dudley Esq^r Cap^t Gen^l & Govern^r in & Over her Maj^{ty} Province of the Massachusetts Bay in New England & to the Hon^{ble} Counsell & Representatives Convened in Gen^l Corte y^e 25 Octobr^r 1704

According to the desire of the Constable of Deerfield I humbly p^{re}sent to this Corte That whereas s^d Constable Named Thomas Wells by Warrent from m^r James Taylor^r Gen^l Treasurer of her Maj^{ty} Revenues in s^d Province s^d Constable was Ordered to Collect the Last Tax appointed for s^d Town to pay To y^e Sum of Sixtie Eight p^{ou}nds ten shillings y^e first half of which he hath payd as p^{ro} y^e Recceite annexed appears & the Other half was to be payd in May Last before the Collecting of which y^e Town was so far destroyed that at Least One half of the inhabitants that should have payd it were killed & taken Captive & their Estates destroyed & burnt up I humbly propose that the Last p^{ar}t of y^e abovesd Sum may be abated to s^d Town & the Constable acquitted & for y^{or} Honor^s I am Obliged to pray
SAML PARTRIDGE.”—*Mass.*

Archives, vol. 113, p. 362.

Partridge, who made this representation, was a member of the Council and actively engaged in all the military movements on the western frontiers. His paper was read in the House on the fifteenth of November when the order which constitutes this chapter was passed and sent to the Council for concurrence. It was immediately concurred in, and consented to by the Governor.

The particulars of the attack on Deerfield, which rendered necessary the collection of the tax laid on that town by the second tax act* of the year 1703-4, are given in the note to resolve, chapter 6, *ante*.

Upon the passage of this chapter, the province treasurer, being accountable for the whole sum assessed upon the town, charged off, as abated, one-half of the assessment, as follows:—

“By Abateme^{nt} to the Town of Dearfield the Town being so farr destroyed
& many of the Inhabitants killed and taken Captives and their Estates
Destroyed and burnt, Allowed by the General Assembly . . . 17 2 6.”
—*Ibid.*, vol. 122, p. 258.

Chap. 75. This chapter is from archives, vol. 71, p. 98. It is recorded in council records, vol. VIII., p. 90.

The report of the committee appointed in chapter 65, *ante*, which was presented to the Council, November 10, 1701, “by John Phillips Esq^r Chair Man of the said Committee, Was read, Proposing the Building of a snitable Ship or Galley to carry sixteen or eighteen Guns; And the said Report was Voted an Acceptance, & sent down to the House of Representatives for their Concurrence.”†

The report of the committee, without date, was written on the back of the resolve which constitutes chapter 85 of this year. Its tenor is substantially the same as that of the following order for a message, which is the basis of this chapter:—

“Ordered That a Message be sent up to his Excellency the Governour.

That this House having Considered His Excellency's Speech referring to Disposing of the Province Galley and Buying, or Building of another vessell to Guard the Coast, and find the charge thereof to be So great, that we apprehend our Selves at this time unable to Support it, being Press'd with the highest charge, this Province has ever Seen, and which threaten's to be larger—

But we humbly Move to Your Excellency, That the Fort at Saco (which is a great, and constant charge, has hitherto been of little or no use, but to cover a Trade, with the Indians, (which now ceases;) being So Situate, as is not advantageous for Defence, to Annoy the Enemy, or as a Barrier to the Frontiers, and the Supplying thereof attended, with great Difficulty and hazard, which Your Excellency is fully Apprizd of) may be Slighted, and the Garrison there drawn off, and we shall cheerfully do our utmost, for the necessary Defence of the Sea-Coast.

JAM^s CONVERSE Speaker.”—*Mass.*

Archives, vol. 71, p. 97.

On the seventeenth, the Council having sent a message to the representatives “to enquire what Consideration was had in that House” of the report, the House responded by their message as above, upon which “His Excellency directed Mr Speaker & the House to attend him, And a Conference was had on that & other Matters.”‡ Thereupon the House receded from the position assumed in their message of the day before, and passed the resolve which constitutes this chapter. This was immediately concurred in, and consented to by the Governor.

* Province Laws, 1703-4, chapter 9. This tax, amounting to thirty-four pounds five shillings, was to be paid into the treasury on or before the last day of May, 1704.

† Council Records, vol. VIII., p. 85.

‡ *Ibid.*, p. 89.

For proceedings relative to the demolishing the fort at Saco and erecting another at or near Winter Harbor see resolves, 1705-6, chapter 57; 1706-7, chapter 76, and the notes thereto; and 1708-9, chapter 47.

For proceedings relative to disposing of the Province Galley and the building and fitting out of the new one see chapter 78, *post*, and resolves, 1705-6, chapters 37 and 39, and notes.

Chap. 76. This chapter is from council records, vol. VIII., p. 90, and archives, vol. 11, p. 193. It is also printed in the note to Province Laws, 1722-23, chapter 8, vol. II., p. 269.

The petition mentioned in the preamble to this chapter is as follows:—

“To His Excellency Joseph Dudley Esq^r Captain Generall and Governour in Chief of Her Majesties Province of the Massachusetts Bay and to the Hon^{ble} the Councill, and Representatives in Generall Court Assembled

The Petition of James Samson Representative of the Town of Dartmouth.

Humbly Sheweth

That the Said Town, is at present destitute of an Ordained Minister, that when any would Joine together in Marriage, They are Necessitated to be at the Trouble, and charge of Travelling twenty or thirty miles to the next Justice of Peace.

Your Petitioner therefore humbly Praies that this Hon^{ble} Court will Permitt, and Impower the Reverend M^r James Gardner, who is at present a Preacher of the Gospel in the sd Town and a Gentleman of great Prudence, & Piety, to Joine Persons in Marriage, in the sd Town pursuant to the Directions of the Law, So long as he shall Continue a Preacher in the sd Town.

And Your Petitioner shall as in Duty bound ever Pray. &c.

Nov^r 16: 1704.”—*Mass. Archives*, vol. 11, p. 193.

This petition was read in the House and the order thereon passed and sent to the Council for concurrence on the sixteenth. On the next day it was concurred in, and consented to by the Governor.

As has been previously stated,* the inhabitants of the town of Dartmouth were chiefly members of the society of Friends, and at this time and for many years subsequently there were not enough members of the orthodox communion to support a minister. For particulars relating to the struggle of this little community for exemption from liability under the laws providing for the support of ministers and meeting-houses, see the note to 1722-23 chapter 8, above referred to.

Samson had been a constable of the town and had been forced to apply to the Legislature for abatement of taxes which he was unable to collect. See resolves, 1694-5, chapter 35, and 1696-7, chapter 61, and notes.

Chap. 77. This chapter is from council records, vol. VIII., p. 90, and archives, vol. 71, p. 86.

The petition mentioned in the preamble to this chapter is as follows:—

“To his Excellency Joseph Dudley Esq^r Cap^t Gen^l & Govern^r in & Over her Maj^{ties} Province of the Massachusetts Bay in New England & to y^e Honorable Councill & Representatives in Gen^l Corte Assembled this 4th Novemb^r 1704

Yor Humble Serv^{ts}

Whose Names are Underwritt do Humbly propose to yor Consideration that we who are concern^d in the Frontiers & in speciall to see the Late Law made with Ifference to a suteable supply of snow shoes performed by the One half of o^r men Respectively in the performance of which wee finde much dissatisfaction amongst o^r men accounting it too Burthensome to y^m who are thereby singled Out accordingly In as much as s^d Estate will be no private benefitit to any but for the publike Use & advantage & more Especially to them that must Wear y^m in Service are alsoe Oblidged to provide them or be at the greatest p^t of the Charge of y^m its true 3^d is allowed by y^e Publique to be payd Yet wee finde a p^r of good snow shoes Morgesons & Bands will cost 10^s money at the Least so that 600^{li} in snow shoes will come to 400^{li} Upon them that must get & Wear them & all Others freed both from y^e Charge as well as Using of them which we Humbly conceive rather That those that are not to Use them should provide for y^m y^t can Or at Least that s^d Charge be provided & payd for Out of the Publike Treasure which we humbly Entreate that if this Corte see meete The s^d act may be altered & made to the good Satisfaction & Encouridge-ment of all Especially of those concerned & oblidged thereby & for yor Hono^{rs} wee shall Ever pray &

PHILIP EASTMAN
JOHN BALCOM
THO RICHARDSON
JOHN HITCHCOCK:
DANIEL MARSH
CYTTING NOYES
SAMUEL WATTS

JOHN FFOOTT
RICHARD HYRBARD
WILAM RIDER JR
PRESERVED CLAP
THO: HARVEY
LWIES BANE
JOHN WHELLER

SAM^l PARTRIDGE
JONATHAN TYNG
JONATHAN PRESCOTT
JERAHMEEL BOWERS
JOHN CHANDLER
THO HOW
JOSEPH BULKLEY.”—*Mass.*

Archives, vol. 71, p. 85.

This petition was read in the House on the sixteenth and the order which constitutes this chapter passed and sent to the Council for concurrence. On the next day it was concurred in and consented to by the Governor. The law referred to in the petition as allowing three shillings for each pair of snow-shoes was the third section of chapter 4 of the acts of this year.

The following orders for warrants on the province treasurer show the towns in which the soldiers resided who were reimbursed:—

“Jan. 18, 1704-5. Pursuant to the Act of the General Assembly, directing that the Militia of the Frontiers be provided with Snow Shoes &c^a Pass’d at their Session begun the Thirty

* Note to resolves, 1694-5, chapter 35.

first of May 1704. upon the allowance thereof by the s^d Act granted, and the further allowance made by the s^d General Assembly at their Session begun the 25th of October following; Mr Commissary General laid before the Board the List of the names of the Souldiers within the several Frontiers of Amesbury, Salisbury, Haverhill, Bradford, Andover, Billerica, Chelmsford, Groton, Sudbury, Marlborough, Stow, Sherborne, Mendon & Woodstock, with Certificates thereon under the hands of the Captains of the Military Companies and Troops within the same of the number of their Souldiers respectively that are furnished with good serviceable snow shoes and Mogginsons, amounting in the whole to six hundred, as by a Memorial thereof made.

Advised and Consented. That a Warrant be made out to the Treasurer upon the s^d Memorial, to pay by the Constable or Constables of the s^d Fourteen Towns above named, unto each of the Souldiers belonging unto such Town, named in the Lists thereof transmitted to him with the s^d memorial, the sum of Five shillings out of the Poll Tax now collecting, being the allowance made by the General Assembly."—*Executive Records of the Council, vol. 4, p. 139.*

"June 1, 1705. Pursuant to the Act of the General Assembly pass'd at their Session begun the 31st of May 1704. directing that the Militia of the Frontiers be provided with Snow-shoes &c^a upon the allowance therefore by the s^d Act granted. And the further allowance made by the s^d General Assembly at their Session begun the 25th of October following, Mr Commissary General laid before the Board the List of the names of the Souldiers within the several Frontiers of Springfield, Northampton, Hadley, Hatfield, Westfield, Suffield, Enfield, Brookfield & Dracont with certificates under the hands of the Captains or Chief Officers of the several Military Companies and Troops within the same containing the names and numbers of their souldiers respectively that are furnished with good serviceable Snow shoes and Mogginsons, amounting in the whole to three hundred forty nine, as by a memorial thereof made.

Advised and Consented. That a Warrant be made out to the Treasurer upon the said Memorial to pay by the Constable or Constables of the s^d nine Towns above named, unto each of the Souldiers belonging unto such Town, named in the List thereof, transmitted to him with the said Memorial, the sum of five shillings out of the Poll Tax now collecting being the allowance made by the General Assembly."—*Ibid., p. 174.*

"June 22, 1705. Pursuant to the Act of the General Assembly pass'd at their Session begun the 31st of May 1704. directing, that the Militia of the Frontiers be provided with Snow shoes &c^a upon the allowance therefore by the s^d Act granted, and the further allowance made by the s^d General Assembly at their Session begun the 25th of October following, Mr Commissary General laid before the board a List of the names of the Foot Company in Newbury under the Command of Hugh March Captain with a Certificate under his hand of the number of twenty eight of his Company that are furnished with good serviceable snow shoes and Mogginsons.

Advised and Consented. That a Warrant be made out thereon to the Treasurer to pay by the Constable or Constables of the s^d Town of Newbury, unto each of the s^d Twenty eight Souldiers named in the List thereof transmitted to him, the sum of five shillings out of the Poll Tax now collecting, being the allowance made by the General Assembly."—*Ibid., p. 184.*

"Oct. 11, 1705. Pursuant to the Act of the General Assembly at their Session begun the 31st of May 1704. directing that the Militia of the Frontiers be provided with Snow Shoes &c^a upon the allowance therefore by the said Act granted, and the further allowance made by the s^d General Assembly, at their Session begun the twenty fifth of October following, Mr Commissary General laid before the Board a List of the names of Thirty two of the Foot Company in Framingham, certified by their Captain or Commanding Officer, that are furnished with good serviceable snow shoes &c^a.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay by the Constable or Constables of the s^d Town of Framingham unto each of the s^d Thirty two Souldiers named in the said List, the sum of five shillings out of the Poll Tax, ordered to be collected in the s^d year 1704. being the allowance made by the General Assembly."—*Ibid., p. 223.*

The following entry in the province treasurer's account from May 31, 1705, to May 31, 1706, shows the total amount of the credits given to the several constables for the allowances made by them to the inhabitants of the respective towns out of their poll taxes, for snow-shoes with which they had furnished themselves under the act and resolves of the General Court:—

"Paid by Discount to Several Constables of Several Towns for 714 pair of Snow Shoes that the Inhabitants of s^d Town had Supplied themselves with, was Allowed out of their Poll tax pursuant to the Resolves of the General Assembly 178^{ll} 9^s 11^d -."

—*Mass. Archives, vol. 122, p. 254.*

Chap. 78. This chapter is from council records, vol. VIII., p. 91. It has not been found in the archives.

After the proposition for the sale of the Province Galley and the building a new galley had been agreed to in connection with other matters, as shown in chapter 75, *ante*, and note, it was considered by itself as a distinct subject-matter, and the next day the order which constitutes this chapter was passed. There is nothing to show that this was not purely an executive order of the Council except the subsequent action of both branches approving the doings of the committee. See resolves, 1705-6, chapters 37 and 39, and notes.

Chap. 79. This chapter is from archives, vol. 101, p. 278. It is recorded in council records, vol. VIII., p. 91.

* Evidently this should have been ten shillings.

On the twenty-second of July Sewall records in his diary * that "It begins to be known that the Bills of Credit are counterfeited, the Twenty-Shilling Bill."

On the twenty-fourth the following vote of advice was passed by the Council:—

"July 24, 1704. Upon discovery of a Forgery of the Twenty shilling Bill of Credit on this Province.

Advised that his Excellency emit a Proclamation to notify all her Maj^y's good subjects thereof to prevent their suffering loss and damage by being imposed on by any of the s^d false Bills, and to require all persons having any of the Twenty shilling Bills of Credit in their hands, to offer the same to the view and examination of the Commissioners that signed the Bills or one of them who will attend at the Council Chamber in Boston for that purpose, upon Tuesday, Thursday and Saturday weekly untill the last day of August next and will give them assurance of their Bills being either good or forged.

And likewise, to promise Indemnity from punishment and a Reward of Fifty pounds to any that shall make discovery, so as to convict the persons, that have been the Contrivers and Actors of the s^d Forgery although they themselves may have been concerned therein." — *Executive Records of the Council*, vol. 4, p. 50.

In accordance with this advice the Governor issued the following proclamation:—

"By His Excellency *Joseph Dudley* Esq. Captain General and Governour in Chief, in and over Her Majesties Province of the *Massachusetts Bay* in *New England*.

A PROCLAMATION.

WHEREAS it's manifest, That some evil minded Persons, designing to Cheat and Cousen Her Majesties good Subjects, have attempted to Counterfeit the Twenty Shilling Bill of Credit on this Province,

For the better Detecting of which wicked practice, and to prevent Loss and Damage to Her Majesties good Subjects, by taking any of the said false Bills

I have thought fit, by and with the Advice of Her Majesties Council, to Notify all Her Majesties good Subjects, of the Deceit and Cousenage aforementioned, That they may not be Imposed on thereby; And to Require all Persons, having any of the *Twenty Shilling* Bills of Credit in their hands, to offer the same to the View and Examination of the Commissioners that signed the Bills, or one of them; who will be present and attend at the Council Chamber in *Boston*, for that purpose, upon *Tuesday, Thursday and Saturday* weekly, untill the last day of *August* next, *Viz. on Tuesday's and Saturday's* from Eleven to One of the Clock, and on *Thursday's* from three to five of the Clock afternoon; And will give them Assurance of their Bills being either good or forged.

And forasmuch as there must necessarily be a Combination of divers Persons in the said wicked Design of Forgery and Deceit; whosoever therefore shall make discovery of them so as to convict the Contrivers and Actors thereof, or any of them, the Person or Persons making such discovery, although themselves have been concerned therein, shall not only receive an Indemnity from any punishment, but also a Reward of *Fifty Pounds*, to be ordered and paid them out of the Publick Treasury.

Given at the Council Chamber in Boston the 24th of July 1704 In the Third Year of the Reign of Our Sovereign Lady ANNE, by the Grace of GOD of England, Scotland, France and Ireland QUEEN, Defender of the Faith, &c.

By Order of the Governour and Council.

J. DUDLEY.

Isaac Addington Sec^y

GOD Save the QUEEN." — *Boston News-Letter*, No. 15.

Under date of the twenty-fifth of July Sewall † records "The Forgers are discover'd," and about the same time the following item appears in the *News-Letter*:—

"*Boston*. Several Persons that were Actors and Contrivers in attempting to Counterfeit the 20s. Bills of Credit on this Province, Thereby to Cheat and Cousen Her Majesties good Subjects, are now in Prison, *viz Peregrine White* and *Benoni White* Black-Smiths, *John Breicer* Carpenter, and *Daniel Amos* Wine-cooper. By the Examinations taken, it do's not appear that there has been the value of *One hundred Pounds* of the said Counterfeit Bills made or Issued. And their Plate & Press is Seized, which it's hoped will put a full stop to the further progress of that wicked practice.

Thomas Odell one of the principal Actors in that Villany & Cousenage, and also Infamous for his making & uttering of base Money, absconds and is fled from Justice; Whosoever shall discover and cause him to be apprehended that he may be brought to answer for his Crimes aforesaid, will be well rewarded for his pains. And 'tis said the greatest loss in this matter will fall upon *N Hampshire* in case the said *Odell* be not taken, he having carried most of his Counterfeit Bills into that Province." — *Ibid*.

The next proceeding of which any trace has been found is the following vote of advice by the Council:—

"Aug. 8, 1704. Advised. That his Excellency emit a Proclamation for the apprehending of *Thomas Odell* a Chief Contriver and Actor in the Counterfeiting of the Twenty shilling Bill of Credit on this Province; and uttering of the same. As also violently suspected of making & uttering of base and counterfeit money or coyns; with promise of a Reward of thirty pounds, to whomsoever shall seize and render him to Justice." — *Executive Records of the Council*, vol. 4, p. 56.

In accordance with this advice the following proclamation was published:—

"By His Excellency, *Joseph Dudley* Esq. Captain General and Governour in Chief, in and over Her Majesties Province of the *Massachusetts-Bay*, &c. in *New-England*.

A PROCLAMATION, For the Apprehending of *Thomas Odell*.

WHEREAS *Thomas Odell*, a chief Contriver and Actor in the Counterfeiting of the Twenty Shilling Bill of Credit on this Province, and in uttering of the same; As also violently

* Vol. II., p. 113.

† Sewall notes, under this date, "Proclamation is issued out against the Forgers of the Bills &c."

— *Ibid.*, p. 114.

‡ *Ibid*.

Suspected of making and uttering of base and counterfeit Money, or Coin, is absconded and concealed; notwithstanding Hue-en-cry's and Warrants have issued to pursue after, and apprehend him, That he might be brought to Answer for his said vile and wicked practices.

I Have therefore thought fit, with the Advice of Her Majesties Council, to Issue this Proclamation, hereby requiring all Officers Civil and Military, and all other Her Majesties Loving Subjects, to apprehend and take into Custody the Body of the said Thomas Odell; withal Declaring, That whosoever shall Seize the said Odell, and render him to Justice, shall have the Sum of Thirty Pounds as a reward therefore, to be Ordered and paid out of the Publick Treasury.

Given at the Council Chamber in Boston the Eighth Day of August, 1704, In the Third Year of the Reign of Our Sovereign Lady ANNE, by the Grace of GOD of England, Scotland, France and Ireland QUEEN, Defender of the Faith, &c.

By Order of the Governour and Council.

J. DUDLEY.

Isaac Addington Secr.

GOD Save the QUEEN." — *Boston News-Letter*, No. 17.

The following memorandum is appended to the foregoing proclamation:—

"The above-nam'd Odell is one of a middle Stature, slender & straight Body, black hair, thin visage, holding his head somewhat on one side in his walk; who is known often to have changed his name." — *Ibid.*

Two days later Odell was apprehended at Stonington, Connecticut, as appears by the following item in the News-Letter:—

"Stonington, Aug. 10. Here is a person apprehended & secured, for putting several Cheats upon some persons, and supposed to be Thomas Odell mentioned in the News Paper for Counterfeiting the Massachusetts-Bay's 20s. bills of Credit." — *Ibid.*

In his opening speech to the Assembly, which convened in its second session on the sixteenth of August, Governor Dudley represented the need of some legislation to prevent similar "villanies" in the future, as follows:—

"I have also to acquaint you that we have lately discovered a number of ill men Coyners of Money & forgers of our bills of Credit, which are in prison to answer & tho' the Common Law will be sufficient to Impower the Judges for their punishment yet I shall Desire your advice & assistance for the prevention of such Villanies tending so Much to the ruine of Trade & the publick Credit of the Government." — *Mass. Archives*, vol. 108, p. 21.

In response to this appeal the Legislature passed the only act* of the session, entitled "An act against counterfeiting the bills of credit on this province."

Three months after this act was passed the resolve which constitutes the present chapter was passed in the Council and sent down to the House for concurrence. It was immediately concurred in, and consented to by the Governor.

The order† for a warrant to the province treasurer for the amount granted by this chapter was passed November 20, 1704, and his account‡ shows that it was duly paid.

The subsequent proceedings against the counterfeiters are shown in the note to resolves, 1707, chapter 8.

Chap. 80. This chapter is from archives, vol. 101, p. 275. It is recorded in council records, vol. VIII., p. 91.

Chap. 81. This chapter is from archives, vol. 2, p. 118. It is recorded in council records, vol. VIII., p. 91.

The rumors of an intended invasion from Canada, reported in the letters referred to, and in part printed, in the note to chapter 7, *ante*, were corroborated by a despatch from the eastward, as appears by the following entry in the council records under date of the tenth of June:—

"His Excellency received Intelligence this Morning from Coll. Church Chief Commander of her Majesties Forces in the Bay of Fundy & of their Success so far as they have gone with a Confirmation of the Intelligence, that the Enemy were coming this Way with a considerable Body; We being read at the Board & sent down to the Representatives with a Message, That it is necessary to raise two or three Hundred Men to go Eastward for Enforcing the Frontiers for about a Months Space, And that the Women & Children that can be spared with the Cattle be drawn in." — *Vol. VIII., p. 53.*

Clearly, Church expected that the point of attack would be somewhere on the frontier between the Androscoegin and the bend of the Merrimac, and in this belief Dudley appears to have coincided, and he seems to have been of the opinion that the duty of defending the county of Hampshire § properly devolved upon Connecticut as being practically a part of her northern frontier. Therefore, notwithstanding the message from the House which constitutes chapter 7, *ante*, in view of the news of danger besetting him upon the east, the Secretary, by the Governor's direction, replied to the application || of Governor Winthrop as follows:—

"BOSTON, June 12th 1701.

HONORABLE SIR, — The hurrys of the service preventing his Excellency's writing with his own hand, he has commanded me to acquaint your Honour that besides the six hundred men gone forth in the expedition to the Bay of Fundey, he has four hundred in the gar-

* Province Laws, 1704-5, chapter 8. The enactment of this bill was published in the News-Letter, No. 19.

† Executive Records of the Council, vol. 4, p. 112.

‡ Mass. Archives, vol. 122, p. 229.

§ Written "New Hampshire" in Winthrop's letter to Dudley: Winthrop Papers, part V., p. 218.

|| See Winthrop's letter of the tenth of June in note to chapter 7, *ante*.

rison, three hundred and fifty in marching parties on the frontiers, and is necessitated to raise three hundred more forthwith to march into the Province of Maine, to add to the forces already there, to repel the force daily expected from Canada, with the Eastern Indians, of about eight hundred men; besides the vessels of war. And to pray your Honour's care of the county of Hampshire, which lyes frontier to your government, that they may be well strengthened, at least for a few weekes next coming, that they may be able to stand the present shock. His Excellency hopes to send one hundred men thither in a few days. I am, Honorable Sr, your Honor's most humble and obedient servt

IS^t ADDINGTON." — *Win-*

throp Papers, part V., p. 220.

The representatives fully sharing the Governor's views of the need of a larger force in the field than was already enlisted, and of the disproportionate and increasing burden resting upon the province, addressed the Governor to solicit the coöperation of Rhode Island and Connecticut,* as follows:—

"June 17, 1704. The House of Representatives presented a Memorial to his Excellency from the House, Praying his Excellency to move the Neighbouring Governments for their Assistance in Carrying on the War, W^{ch} was read at the Board." — *Council Records, vol. VIII., p. 58.*

Accordingly, on the twenty-fourth Dudley wrote to Winthrop the following letter, which has been referred to in former notes:† —

"Sr, — I have your several letters and thanke you succours att or upper towns in Hampshire. What M^r Secretary Addington wrote‡ you abt a supply of two hundred men for those parts was by my direction, and it was upon the news of the settlem^t of the enemy at Coasset upon Connecticut River, which Colo Schyler and Lieut. Colo Partridge both intimated to me they had men out to discover; and if that had been made certain, we had all been in fault not to have disnested them. But that news failing and no discovery made, and in y^e mean time it being made most certain that there was a march of the enemy, of near a thousand, coming upon the eastern parts (Yorke and Hampshire), I was necessitated to dispatch that force thither, but shall yet do what is necessary at Hadley, but wth some losse of time. Sr, the General Assembly of this Province, now sitting, have offered me their very just memorial, earnestly desiring that I would move y^rselfe & the Govern^{mt} of Connecticut at all times to do a proper share of the present hard service. I have now eighteen hundred men effective in the service, and I can not abate a man from any part; and if y^r Govern^{mt} and Rhode Island were sensible of y^r distance and security from the ordinary danger, it would be thought by equal judges that the one halfe of the service should be supported by y^r two Governments. But however that may be, I hope you will continue to do some proportionable service, whereof the covering of Hampshire shall be a part. . . . I have ordered the Commissary General to supply the necessary ammunition at Hampshire, and hope the officers will see it well spent. I heartily wish your health, and am, Sr,

Y^r very humble servt,

J. DUDLEY." — *Win-*

throp Papers, part V., p. 230.

After the retreat of Beaucourt had been well assured, Dudley, relying upon Vaudrenil's plan of operations communicated by him to Brouillan in the intercepted letter heretofore mentioned, wrote as follows to Governor Winthrop on the twenty-eighth of August:—

"I do not expect any considerable force upon your river til the last expedition against Lancaster is got to Montreal, & then they will return, but may fall into the edge of the winter. The next impression will be where I am and I am providing for it.

I am Sr your very humble servant,

J. DUDLEY.

There is no danger upon our towns on Conecticut River while your forces are marching to Coasset." — *Ibid., p. 261.*

In this letter he had avowed his interest in the contemplated expedition to Cowassie, but declared that he would be pleased to have the place reconnoitred by a small scout before advancing "a great force thither"—adding that, "five or six Indians and two or three English men would make us certain."

On the fourth of September he wrote again, informing Winthrop of his plans for a new campaign at the eastward, and intimating in the following paragraph a desire for assistance from Connecticut:—

"Every thing is well upon our fronteirs at present & I am hastening a new expedition eastward & should be glad of fifty of your Moheegs, and particularly Jan Philip, who went home with that troop with Captain Avery.

I am Sr your humble servant,

J. DUDLEY." — *Ibid.,*

p. 262.

Soldiers from Connecticut still continued to man the garrisons in Hampshire County notwithstanding a resolution of the committees of war to recall them. By the twelfth, however, the committees decided to withdraw all but seventy-five men, as appears by the following extract from a letter from Deputy-Governor Treat to Governor Winthrop:—

"We had resolved to draw off the greatest part of our forces from the countie of Hampshire by the middle of the week and had signified the same to Coll. Patridge. Whereupon we received a letter from him, sign^d by him and divers principle men in trust with him, signifying their earnest desires of their continuance there till the middle of Octobr next, in most affectionate termes; apprehending their danger of the enemy to be still very great, so that without assistance from us they shall not be able to gett in their Indian harvest;

* In the record of this memorial the province of New York is not expressly excluded but nothing has been found to show that it was included.

† See notes to chapters 53 and 71, pp. 402 and 420, *ante*.

‡ May 16, 1704. See note to chapter 53, p. 401, *ante*.

giving many reasons for our souldiers continuance. In comiseration of their circumstances, we have yielded to their desires so farre that we have ordered 75 of our men to remain in their countie till further order; 60 of them under the comand of Capt Newbury for the assistance of Hadly, Northampton and Hatfield, and 15 for Westfield; and the rest to be forthwith drawn off by Majr Whiting, who is gone up the countrey for that end. I desire your Hon^r by the first to send to us what advice may be needfull, for I am very desirous to be going homeward this week; and am Sr,

Your humble servant,

R: TREAT. D. G." — *Ibid.*, p. 264.

Dudley seems not to have been satisfied with the quota of men furnished to aid him in carrying out his plans for defence and offence against the common enemy. He considered the failure of Rhode Island and Connecticut to adopt the standard which seemed to him the just ratio of their respective contributions to this object good cause of complaint to the Lords of Trade. As the time approached for the arrival of the letter of the Privy Council, which Dudley evidently expected to be instructed to bear or transmit to those governments, he deemed it proper to have messengers seasonably appointed by, or with the approval of, the Legislature, to conduct that business. He had resolved to prorogue the General Court; so, on the last day* of the third session, the order which constitutes this chapter, and which originated in the House on the seventeenth, was passed and received his approval.

Meanwhile fresh rumors were circulating of the enemy's preparations for sending out an army † during the approaching winter.

On the twenty-eighth, Andrew Belcher, commissary-general, was nominated by the Council to serve as one of the commissioners to Connecticut, but neither he nor Nathaniel Paine appears to have acted in that capacity. On the fifth of December Wait Winthrop, named first after Converse on that commission, "being under indisposition ‡ and incapable of a present attending of that service, Samuel Lynde Esq^r was named and desired to supply his place." § Thereupon "his Excellency communicated to the Council his several Letters to Gov^r Winthrop and Gov^r Cranston, to be sent by the sd Commissioners of what his Expectation was from the said respective Governments in that regard.

As also the Copy of Her Maj^{ty}'s Letter and Commands to those Governments to give their assistance, as occasion may require." ||

The letter from Dudley which the commissioners bore to Winthrop was as follows: —

"For the Honorable John Winthrop Esq^r, Governour of her Majesties Colony of Connecticutt, New-England.

Boston, 4th December, 1704.

Sr, — Besides my own just expectation from your Government of a supply of men for the service against the French and Indians, I am now urged by the General Assembly of this Province to take all methods to ease the excessive charge the war has brought on them, by obtaining a just quota of men from your Colony. And accordingly, with the advice of her Majesties Council and the House of Representatives, I have desired and impowred Wait Winthrop, Nath^l Byfield, Nath^l Payne, James Converse & Sam^l Lynde Esq^rs, or any 3 of them, to visit you and lay before you the necessity of your advancing men and money towards the service, wherein the Queen's subjects of your parts are equally concerned. I have given them my own expectation and refer the matter to a free conference with you. Sr, what I justly expect is one third part of the charge of the present war, which I desire may be done in a just quota of men to be supported by your Government; and because the county of Hampshire is next you and properly your cover and frontier, I shall consent that, so far as is necessary there, your forces be there improved; but I must expect that they be as well subsisted as their wages paid them. I know not your establishment of pay and therefore shall desire your share in number only; and at present for the winter quota I stand at eight hundred men for these two Provinces, besides exigits which will often demand the march of five hundred more. It is so very difficult to march men to West-Hampshire, that I choose at present to employ your quota there, where I justly expect a shock within a short month. I must also insist upon it that your officers, whom I shall entertain upon your own nomination, receive all directions and orders from my self during their being within these Governments; without which there can be no proper service done nor account be taken.

They have also to deliver you her Majestys most gracious commands in this affayre, which, by the date, you will perceive was before I could advise of the service done by your forces in West Hampshire. I shall not faile at all times to acquaint the R^t Hon^{ble} the Lords Commissioners of Trade and Plantations, that your obedience herein may be laid before her Majesty.

I am Sr your humble servant,

J. DUDLEY." — *Ibid.*, p. 273.

On the same day on which the commissioners received their papers Whiting wrote to Governor Winthrop the following letter, justifying Dudley's expectation of a "shock" in "West Hampshire": —

"MAY IT PLEASE YOUR HONOUR, — I am desired by the gentlemen of the Committee of Warr in this county to signifie to your Honor the haszard the frontiers may be in by a party of the enemy that are already come over the lake, which advice came first by ex-

* The eighteenth of November.

† "New York, Nov. 13 . . . Last night came an Express from Albany, & brought an Account, that an Onondage Indian was arrived from Canada, & gives an Account, that an Army was preparing with great vigour to make an Attack this Winter over the Ice, but on what place was kept secret." — *Boston News-Letter*, No. 32.

‡ He was Governor Winthrop's brother. His indisposition, of which no intimation appears before Dudley had prepared his letter, may have been induced or aggravated by his knowledge of the nature of the errand on which it was proposed to send him.

§ Executive Records of the Council, vol. 4, p. 120.

|| *Ibid.*, p. 121.

press from Albany to the gentlemen in the county of Hampshire, and the last week confirm'd by John Nobles who came from Albany hither, who gives this account: that one of our Maquaws coming from Canada happen'd to lodge one night with twenty of the French Indians, who inform'd him that there was four of their men gone to New England twenty days before, if possible to take a captive, thereby to gaine a full accot^t of the state of affairs here; and that those twenty were going after upon some designe, its thought to provide for an army that is to come over this winter, which by the advice is to consist of 800 men, which is concluded by the number of snow shooes and Indian shooes provided by the Governor at Mont Royall, viz^t 1600 payr Indian shooes and 800 payr snow shooes. Sr, the gentlemen here can not but retaine a lively sence of the danger our neighbours are lyable to and how much our owne safety and welfare is concern'd therein. Therefore humbly propose to your Honour that a suitable number of men may be rais'd in this Government and lodg'd in the frontiers, in such number and in such place or places as you shall think fit for the defence thereof, least the enemy find our lines naked. Also whether these men ought not to be detach'd out of the lower countyes, that this be not burdened above mesure; for in case of any discovery made of an approaching enemy or sudden attack, we must immediately send to the releife of our friends. Mr Nobles informs that Monsier Vandervill, Intendant at Canada, intends to command in person this winter, w^{ch} comes also by the fore^s^d Indian. . . . Therefore, whether it be not highly necessary that some men may be plac'd in garrison in the county of Hampshire, and that blank commissions be prepar'd for persons that be thought fit to command, in case of sudden assalt. All which is submitted to your Honours wisdom. The gentlemen conceive there is sufficient power in your hands to put this so necessary a preparatory action in execution. The restless endeavors of our enemies shoud put us upon the greater care and watchfulness. Sr, please to forgive this trouble. I move by the direction of the gentlemen of the Committy of Warr. Sr, I am

Your Honours most dutifull
humble servant,

HARTFORD, Decem. 5^o. 1704.

WILL: WHITING." — *Ibid.*, p. 274.

Further confirmation of Dudley's expectation was furnished in the following postscript to the above letter:—

"The 6^o currant.

Last night about sundowne came hither two men belonging to Westfield, who came from Albany directly, that gave this further account: that the Gov^r of Canada hath summon'd in all his Indians, which puts the Albanians into considerable fears, and gives us ground to suspect their designs against us. The persons that came from Albany, who came from thence about a week since and are now at my house, further inform me that this intelligence was brought by one of their Indians the day before they came away. Most of the principal gentlemen were but just come from York and knew not of their coming away. They further tell me they were desired to inform the people of New England thereof." — *Ibid.*, p. 276.

It would seem, from what has been learned by subsequent study of the condition of Massachusetts and Connecticut at that time, that had statistics * of the wealth and population of the two territories been available for comparison the Lords of Trade might not have been so easily convinced that Connecticut had not borne an equitable part of the common burden.

The commissioners set out for Boston accompanied by three troopers.† They appear to have reached New London by the thirteenth of December, on which day a meeting of the Council was held there by the governor and four of the assistants.

Besides providing for raising and for distributing and governing two hundred men to protect the frontier towns within the colony, the Council passed the following order:—

"The Govern^r Hon^r having appointed and impowred Capt. Nathan Gold, William Pitkin Esqr, Maj^r William Whiting and Mr John Eliot, to treat with Colon^l Nathaniel Byfield, Maj^r James Converse, and Samuel Lynde, Esq^{rs}, concerning such affairs relating to the present warr which the said gentlemen are directed by his Excellency Govern^r Dudley to lay before his Hon^r and Council.

Ordered by his Hon^r and Council that the gent[le]men appointed to treat with Colon^l Byfield and the other gentlemen of the Massachusetts doe offer to them that 150 effective

* See comparison of population in foot-note on p. 420, *ante*. John Chester, sometime speaker of the house of representatives in Connecticut, and for eleven years an assistant, thus plaintively dwells on Dudley's requital of the efforts and sacrifices of that colony:—

"WEATHERSFIELD, Decem^r 11th 1704.

HONNBLE SR, — It looks like partiality that this Government should be at such great expence, and so little notice taken of it by Governor Dudley in his prints of encomium on the expeditions made by the forces of the Massachusetts & the success they have had against the French & Indians, the comon enemy. His Exclency seems to leave yor Hon^{rs} faithfull endeavours for the preservation of her Majesties subjects in the Massachusetts Province and in this Govern^{mt} wholly in oblivion, as if the having 800 men at sometimes under pay, & most of the sumer 5 or 600, & the charge of about 10,000 pound, were not worthy of a word of remembrance; but it is not otherwise than it useth to bee. There are some belonging to this Colony & many in the neighbouring Provinces that are readily informing against the Govern^{mt} without cause, but backward in making the least mention of the pains & services we undergoe for the securitie of her Majesties good people. I hope yor Hon^r will find out the author of that altogether groundless falshood, viz^t that the Colony's injustice toward the Moliegs was the occasion of the present warr. Doubtless our Agent is well informed that the nationall warr reaches us and allways of late years hath been very fatal to New-England. If we should keep exactly to the rule given by order of his late Majesty in the measure of assistance that the Colony is to afford in time of actual warr, in conjunction with the rest of Govern^{mts}, as our own just portion, we should not have more enemies amongst or near ourselves to seek our hurt than we have now. Boston seems to be hard upon this Govern^{mt}, when many of the neighbouring Govern^{mts} concern not themselves about the present troubles, neither in affording men or money when it is due as it is from this Colony. . . ." — *Winthrop Papers*, part V., p. 276.

† See chapter 112, *post*.

men shall be raised in this colonie, for the defence of the countie of Hampshire, to be posted in the townes of Hatfield, Hadly, Northampton, and Westfield, provided that they be subsisted by the province of the Massachusetts . . . The Council leaves it with the Govern^r Hon^r to write a letter to the Secretary of State in answer to her Majesties letter signifying that complaint is made against this colonie for refusing to assist the Massachusetts in this time of warr." — *Colonial Records of Connecticut, 1689-1706*, pp. 496, 497.

To Dudley's letter Winthrop returned the following considerate and dignified answer :—

"NEW LONDON, Decbr 19th 1704.

S^r, — I have received your Excellency's letter of the 4th instant by Coll: Byfield, Major Converse, and Mr Lynde, who have delivered to me her Majestye's letter of March 30th 1704, requiring some assistance from this Government towards the support of your Province against the French and Indians; w^{ch} I have communicated to the gentlemen of her Majestye's Council, who had then under their consideration the present state of yor county of Hampshire, in order to raise some force for their assistance. The quota of men and money incerted in your letter for this Government is a motion soe very unreasonable, that I think it not fit to enter upon any long debate with your Commissioners upon that head; however, that I may not be wanting to her Majestye's service, and to secure her Maj: subjects in that part of your Province more immediatly exposed to the impression of the enemy, I have concluded, with the advice of her Majestye's Council, to raise two hundred men for their present defence, — provided they be subsisted at your charge, and that your Excellency furnish with one hundred men and stores of ammunition for the defence of the said county. I must alsoe acquaint your Excellency that our officers must be comissionated by this Government, but they shall be at your direction in your Province, as has been formerly practised and was soe executed in a former war with the Indians in the same county. I am extremely surprised at the representation your Excellency has made to her Majesty against this Government as refusing to contribute a small assistance when it was desired in the most pressing manner; w^{ch} is a very great hardship, injustice and discouragement to us and might very well have been spared, considering how frequently wee have had a detachment of dragoones upon the frontiers, if not at the same tyme of your complaint, — and this present yeare not onely those forces at the eastward, but alsoe foure hundred standing forces in your county of Hampshire the whole sommer; besides the additionall troopes w^{ch} at severall tymes were sent up upon the advice I received of the enemys approach, w^{ch} did wholly frustrate the designe of the enemy. Yet I will be allwaie ready to lend you what succoures I am able, and when your Excellency's troopes shall distinguish themselves by assisting or releveing any of our frontiers, it shall be very justly represented to her Majesty and gratefully accepted by S^r,

Yor Excellencys very humble servt,

J: WINTHROP." — *Win-*

throp Papers, part V., p. 278.

Dudley's reply to this letter was written after the passage of the order which constitutes chapter 106, *post*, and is given in the note to that chapter.

Against Rhode Island Dudley's accusations to the Lords of Trade had been extremely severe. "He complained that not only would the Rhode-Islanders, with Massachusetts between them and harm, contribute neither men nor money to the war, but that they harbored and hid deserters from the camps." * The commissioners who went to Rhode Island bearing the queen's letter elicited by these complaints appear to have presented their demands to the Governor on the eleventh of December and, on the twenty-seventh, the following entry was made in the legislative journals of that colony :—

" . . . Coll. Dudley's demands being laid before the Assembly, it was ordered, That two out of each House should be appointed to draw up an answer, which was accordingly done, and the Assembly adjourned to the second Wednesday in February, according to the adjournment at Providence." — *Records of the Colony of Rhode Island, 1678-1706*, vol. III., p. 515.

The answer returned the next day, which is a plea for further time, is thus recorded immediately after the above :—

"The Governor and Company of Rhode Island to Governor Dudley.

Newport, on Rhode Island, December 28th, 1704.

Sir: Her Majesty's gracious letter from her Court at St. James, the 30th of March past, came to our Honored Governor's hand the 11th of this month, by Coll. Nathaniell Byfield, and others, who brought a letter from yourself by the request of your Generall Assembly, concerning a further assistance of a quota of men to your assistance against her Majesty's enemies, the French and Indians; and as for her Majesty's commands for assisting your frontiers with a number of men, we have not been any ways remiss therein, but on all occasions the summer past, we have to the best of our power and ability, been ready to give all assistance (we judging ourselves in all things of that nature to be bound in duty as her Majesty's subjects, to give our assistance to our neighboring Colonies), neither shall we at any time be wanting so to do for the future in giving our assistance according to our abilities; although we cannot give you that account as we wished might have been, for the seasons of the year being so violent, that great part of the House of Representatives from the main land could not be present, neither altogether the number of listed soldiers produced; and for the further care and knowledge thereof, the Generall Assembly is adjourned until the 11th February next; it is not unknown, that we are also a frontier on the sea, and have allways a number of men in actual service and pay; and if by the next sitting of our Assembly we knew but the number of your listed soldiers, we doubt not but our Assembly will readily order a fit number and proportion on all actual service.

And so we remain her Majesty's obedient subjects, and your Honor's friends and neigh-

bors to our ability. By order of the Honorable the Governor and Generall Assembly of her Majesty's Collony of Rhode Island and Providence Plantations.

WESTON CLARKE, Secretary." — *Ibid.*

The following is from the record of the adjourned session of the assembly:—

"Feb. 14, 1704-5.*

Our Hon'd Governor having presented to this Assembly her Majesty's letters from St. James, March 30th, 1704, the which having been reverently read in said Assembly, and the purport thereof duly considered, as well as her Majesty's command therein, by which we perceive that her Majesty hath been informed that we refuse to assist our neighboring governments against the common enemies, though requested of us in a most pleasing manner; the which information we humbly conceive was misrepresented, for that we find there was no such refusal. And the reasons and grounds of our not complying with the demand made at that juncture not truly stated, for we allways did as we still do, hold it the duty of all her Majesty's Provinces and Collonies to be aiding and assisting to each other according to their strength and abilities, in case of any invasion or assault of the common enemy, the which we have not been negligent in severall particulars; and more especially the last summer, by sending assistance of one good Company of men into the Province of the Massachusetts, which did good service; although we are a frontier, bordering upon the ocean, and lying very open and dangerous of an invasion by sea, which put the Collony to considerable charges in maintaining watches and wards upon the sea coasts, besides our scouts upon the main land, and maintaining a garrison in the fort, and considerable charge towards the security of Block Island; all which lies very weighty upon us, notwithstanding in obedience to her Majesty's commands as well as our own inclinations for her Majesty's interest.

An Act for the raising of soldiers.

Be it enacted by the Governor, Councill and House of Representatives in this present sessions assembled, and by the authority thereof it is enacted, That there shall be the number of forty-eight men, English and Indians, forthwith listed as volunteers or impressed, in this Collony, for the service of the same, or to be otherwise disposed of as is hereafter expressed; the which number of men we deem to be the extent of our quota, or proportion with the rest of the Provinces and Collonies, considering what is above premised as well as by the number of men in the severall Provinces and Collonies." — *Ibid.*, pp. 516, 517.

This was followed by other acts and orders of the same session for raising this quota by enlistment or impressment, and for paying, subsisting, and officering them, etc.

Copies of these doings of the assembly were probably communicated to Dudley by Governor Cranston with the following letter:—

"Newport, on Rhode Island, February 28, 1704-5.

Sir: I have once more laid her Majesty's letter as well as your Excellency's (relating to the assistance of men, &c.), before our Generall Assembly sitting the 14th current, who have ordered the raising of one company of men, to the number of forty-eight, to be always ready for the Collony's service, and if occasion require, for the assistance of our neighboring Province and Collonies. The Assembly have also appointed Major John Dexter, Major Nathaniel Coddington and Capt'n Joseph Sheffield, or any two of them, Commissioners, to treat with the like number of Commissioners that may be appointed by your Excellency's authority (if by you approved of), for the settling the ways and methods how the respective forces, sent to the assistance of each government shall be supported, supplied and disposed of, with what else may be thought most reasonable for her Majesty's interest and safety of her subjects; and that what shall be agreed upon by said Commissioners, to be binding to each government.

Upon the request of the Assembly, I give your Excellency the foregoing account of their proceedings, who also do request if what they have done, be complied with, that your Excellency will be pleased as soon as you shall think convenient, to appoint the like number of Commissioners to have full power with ours, to settle what is premised, and that your Commissioners that may be appointed, do appoint the time and place of meeting as near the division of the government as they may judge most suitable, and give notice thereof to the Commissioners of this Collony, who will attend accordingly. I have not further to offer, but that I am your Excellency's most humble servant,

SAMUEL CRANSTON." — *Ibid.*, p. 496.

On the seventh of May, 1705, the following reply to Governor Dudley was adopted:—

"And be it further enacted by this present Assembly and the authority thereof, That in answer to what is presented to this Assembly, relating to the severall letters to our Honored Governor, from Coll. Joseph Dudley, we find our Collony in eminent danger, and we have been necessitated to raise men for the security of our frontier places in our Collony, that at present we cannot see any necessity to raise any men at present for any other service, but shall at all times be ready to give our neighbors all assistance to our capacity, if any eminent danger on their side shall be; which at present none doth appear." — *Ibid.*, p. 526.

See chapters 97, 106 and 112, *post*, and notes.

Chap. 82. This chapter is from council records, vol. VIII., p. 91. It is preserved in archives, vol. 101, p. 274.

The warrant to the treasurer for emitting the twelve thousand pounds in bills of credit under this chapter was ordered † November 20, 1704. See note to chapter 41, on page 333, *ante*.

The tax act ‡ for a fund and security for redeeming these bills was passed June 30, 1705.

* "New-port Rhode Island, Feb. 15. Our Assembly is now Sitting, In order to raise men according to Her Majesty's Letter." — *Boston News-Letter*, No. 45.

† Executive Records of the Council, vol. 4, p. 110.

‡ Province Laws, 1705-6, chapter 3.

Chap. 83. This chapter is from archives, vol. 121, p. 122. It is recorded in council records, vol. VIII., p. 92.

By resolve, 1702-3, chapter 7, ferrymen were forbidden to take pay for transporting soldiers during the existing war. The purpose of that resolve, undoubtedly, was not to impose an unequal burden upon ferrymen, but to prevent delay in the movement of military forces by substituting a receipt or debenture by the proper military officer for the immediate payment of money, which might in many cases prove inconvenient or impossible. To recover compensation for services of this kind Briar presented the following petition:—

"To his Excellency Joseph Dudley Esq; Capt General & Governor in Chief in and over her Majties Provinces of the Massachusetts Bay &c in New England. And To the Honorable her Majties Council and House of Representatives now in General Assembly sitting in Boston November 9th 1704.—

The Humble Petition of William Briar

Humbly Sheweth

That yor Petitioner has a Lease of the Ferry at Kittery in the County of York by which Lease he is bound And has Covenanted to keep the sd ferry in good repair and to give Constant attendance there; as also to pay the sum of Ten pounds ψ annum Rent for the Same.

Now so it is may it please yor Excellency and Honours and the rest of this great and General Assembly, That the far greatest part of yor Petitioners Employment at the sd ferry, is the Transporting and carrying over Soldiers and their Horses, for the Publick Service, (the other business being very inconsiderable) and yor Petitioner has Receipts to shew from the several Captains & Commanders of Companies &c for such service amounting to the sum of about Eight pounds, And if the ferriage will not be allowed him for such persons as are ferried over upon the public Account It will be the utter ruine and undoing of yor poor Petitioner, who hath yet six years to come in his sd Lease.

Yor Petitioner therefore humbly Prays this great and General Assembly will be pleased to take the premisses into their pious and Charitable Consideration, and be pleased to allow him for such service so much as in their Wisdom and Justice they shall see meet.

And yor Petitioner (as in duty bound) shall ever pray &c

WILLIAM BRIAR." — *Mass.*

Archives, vol. 121, p. 121.

On the tenth the resolve which constitutes this chapter was passed by the House and sent to the Council for concurrence. On the eighteenth it was concurred in and consented to by the Governor.

The order in Council* for the payment of this allowance was passed November 20, 1704, and the province treasurer's account† shows that it was paid.

Chap. 84. This chapter is from council records, vol. VIII., p. 92. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed November 20, 1704, and the province treasurer's account‡ shows that it was duly paid.

Chap. 85. This chapter is from archives, vol. 71, p. 100. It is recorded in council records, vol. VIII., p. 92.

The order in Council§ for the payment of the allowance granted by this chapter was passed November 20, 1704, and the province treasurer's account|| shows that it was duly paid.

Chap. 86. This chapter is from archives, vol. 58, p. 242. It is recorded in council records, vol. VIII., p. 92.

The order in Council* for the payment of the allowance granted by this chapter was passed November 20, 1704, and the province treasurer's account‡ shows that it was duly paid.

Chap. 87. This chapter is from council records, vol. VIII., p. 92. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed November 20, 1704.

See chapters 34, *ante*, and 126, *post*, and the notes thereto.

Chap. 88. This chapter is from council records, vol. VIII., p. 93. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed November 20, 1704, and the province treasurer's account‡ shows that it was duly paid.

Chap. 89. This chapter is from archives, vol. 11, p. 194. It is recorded in council records, vol. VIII., p. 92.

For the particulars of the service for which Hubbard was allowed by this chapter see the note to chapter 35, *ante*.

The order in Council* for the payment of this allowance was passed November 20, 1704, and the province treasurer's account¶ shows that it was duly paid.

* Executive Records of the Council, vol. 4, p. 111.

† *Mass. Archives*, vol. 122, p. 235.

‡ *Ibid.*, p. 227.

§ Executive Records of the Council, vol. 4, p. 110.

|| *Mass. Archives*, vol. 122, p. 223.

¶ *Ibid.*, p. 229.

Chap. 90. This chapter is from archives, vol. 62, p. 473. It is recorded in council records, vol. VIII., p. 93.

The following petition sets forth the services for which Carey claimed compensation:—

"To his Excellency Joseph Dudley Esq^r Capt^l General and Governor in Chief in and over her Maj^{ties} Provinces of the Massachusetts Bay &c^a in New England The Hon^{ble} her Maj^{ties} Council & House of Representatives now in General Assembly convened in and for the s^d Province

The Humble Petition of Matthew Carey —

Sheweth

That yor^e Petitioner has for a Considerable time served as Waiter to the Impost-Office in Boston in which Employment he has justly & honestly discharged his Duty, & by his great care and vigilance has been Instrumental in Saving several pounds to that office which would otherwise have been unavoidably lost the truth whereof may be certified by James Russell Esq^r Commissioner of the afores^d Office And yor^e Petitioner hath the Sole care & trouble without the assistance of another Waiter as formerly, nor hath yor^e Petitioner any other Perquisites to help to support himself & family, save his small allowance of Sallery, & that not paid without the charge & trouble of petitioning your Hon^{ble} selves.

Yor^e Petitioner therefore humbly prays yor^e Excellency & Honor^s would please to take the premisses into yor^e serious & pious Consideration & that in regard of his former services, & to encourage his future diligence, you would please to allow him the sum of fifty pounds Ψ annu. to be paid him by the Commissioner as occasion shall require without further charge or trouble to yor^e Petitioner

And yor^e Petitioner (as in duty bound) shall pray &c^a." — *Mass. Archives, vol. 62, p. 472.*

The above petition was read in the House November 8, 1704, and was probably referred to the appropriate committee. On the eighteenth it was again read and the resolve which constitutes this chapter was passed and sent to the Council for concurrence. It was immediately concurred in, and consented to by the Governor.

The order in Council * for the payment of this allowance was passed November 20, 1704, and the province treasurer's account† shows that it was duly paid.

Chap. 91. This chapter is from council records, vol. VIII., p. 93. It is preserved in archives, vol. 62, p. 456.

The following petition shows for what service Wakefield asked to be compensated:—

"Salem //

To His Excellency & Hon^{ble} Council & Honourd assembly Setting at Boston this 17th March 1703/4

This humbly Sheweth

That your Petitioner subscribed being Appointed & Impowered to be a Waiter at Salem port under the Commissioners Appointed for Collecting & Receaveing of the additionall duties of Impost & Excise As by the Warrant & order under the hand & Seal of his Excellency Joseph Dudley Esq^r Capt^l General & Governour in chief; bearing date at Boston the first day of Aprill 1703. Ready to be produced in Court will Appear.

That your Petitioner having faithfully & truly Served in sd office as a Waiter at the port of Salem aforesd according to the Warrant & order abovementioned & hath not any Sallery or allowance Setled upon him for his Service at sd port & County of Essex.

And therefore humbly Praying your honors will be pleased to take the premisses to your serious Consideration & to Allow & settle to your petitioner such sallery as your honors shall think fit And to grant a Warrant to the generall Treasurer for the payment of the same both for the time past & to Come during his service.

And your Petitioner Shall ever pray &c.

SAMLL WAKEFIELD." — *Mass.*

Archives, vol. 62, p. 456.

The above petition was read, first, in the House in the fourth session of 1703–4. This was on the eighteenth of March; and on the twenty-fourth it was "referred to the next session," but appears not to have been considered until November 10, 1704, when it was read and probably referred, for on the eighteenth, the resolve which constitutes this chapter was passed in the House and sent to the Council for concurrence. On the same day it was concurred in, and consented to by the Governor.

The order in Council * for the payment of this allowance was passed November 20, 1704, and the province treasurer's account† shows that it was duly paid, save that the time of the service for which he was compensated is stated by the treasurer to be "to Octo^r 1704."

Chap. 92. This chapter is from council records, vol. VIII., p. 93. It is preserved in archives, vol. 101, pp. 276, 277.

The two accounts, which together make up the total of the amount allowed in this chapter, are given below, with the orders passed thereon, respectively:—

		D ^{rs}	
		£	s ^d
"Col ^l Elisha Hatcheson Esq ^r & Company —			
For Pap ^r , DD M ^r Joseph Alien, Viz ^t ,			
Aug ^o 16	To 1 Ream of pap ^r ,	£	10 10 —
	To 13 qre of Demy att	2	04 —
		£	14 14 —

Ψ SAM^l PHILLIPS

In the House of Representatives NOV^r 18: 1704

Ordered That the sum above mentiond be paid to Samuel Phillips

Sent vp for concurrence

JA CONVERSE Speaker

NOV^r 18th In Council.

Read and concurr'd." — *Mass. Archives, vol. 101, p. 276.*

* Executive Records of the Council, vol. 4, p. 111.

† *Mass. Archives, vol. 122, p. 233.*

			" Boston Septem ^r 4 1704		Dr	
Cornall Elisha Hutcheson Esq ^r						
To worke Done & sundry disbursments on y ^e Account of y ^e Bills of Credit						
for y ^e Prouins of The Mathetusets Bay In New England By Yor Order						
5 Bushells of Charcolle at 6 ^d p	.	.	.	.	.	00 02 06
6 Barells of Blacking	.	.	.	.	.	00 04 00
for Oyle for to mek y ^e Ink & other Engredenses	.	.	.	.	.	00 04 00
To printing of 1250 sheets of Bills of Credit at 1 ^d ½ p sheet	According					
To Agreement	.	.	.	.	.	07 16 03
To Two Leberars 6 days a peece at 3/6 p day	.	.	.	.	.	02 02 00
						10 08 09

p me JOSEPH ALLEN

In the House of Representatives Nov^r 18: 1704

Orderd that the sum of ten pound eight shillings and nine pence be paid
to Joseph Allen on acct above written

Sent up for Concurrence. JA CONVERSE Speaker: 10. 8. 9

Nov^r 18th 1704. In Council. 3. 14. 0

Read and concurr'd as in the Council; * vote. £14. 2. 9

Is^a ADDINGTON Secy^r."— *Ibid.*, p. 277.

The order in Council † for the payment of the allowances granted by this chapter was passed November 20, 1704, and the province treasurer's account ‡ shows that they were duly paid.

Chap. 93. This chapter is from council records, vol. VIII., p. 93. It is preserved in archives, vol. 71, p. 105.

For an account of the attack on Lancaster, on which occasion the losses were suffered for which allowances were made in this chapter, see the note to chapter 71, *ante*.

The following is the petition upon which the resolve which constitutes this chapter was passed:—

"To his Excellency Joseph Dudley Esq^r Cap^t General and Governo^r in Chief in and over her Maj^{ties} Provinces of the Massachusetts bay &c in New England and To the Hon^{ble} the Council and Representatives now in General Assembly sitting at Boston within s^d Province Nov^r 18th 1704.

The Humble Petition of Cap^t William Tyng

Sheweth

That just before the Mischeif was done at Lancaster yo^r Petitioner was in Boston. and by his Excellency was order'd down forthwith to his Post, to go by Dunstable and thence to Lancaster, which yo^r Petitioner accordingly did, and rode thither upon his own Horse, which he turned into a pasture there, and the next morning the Horse was by the Indians taken out of the s^d pasture & driven into the woods where they killed and ate the s^d Horse. And Farther yo^r petitioner sheweth That one John Spalding who was a Soldier under his Command was killed in that Action and his Gun taken by the Indians, and he being a very good Soldier (tho a youth) & the Gun being his flathers who is very poor—

Yo^r Petitioner therefore humbly prays this great and General Assembly to take the premisses into Consideration And that he may have such Satisfaction & recompence made him for the loss of his Horse and the flather of the young man for the loss of his Gun as to this great & General Assembly shall seem meet—

And yo^r Petitioner shall pray &c^a

WM TYNG." — *Mass.*

Archives, vol. 71, p. 105.

The order in Council † for the payment of these allowances was passed November 20, 1704, and the province treasurer's account § shows that they were duly paid.

Chap. 94. This chapter is from council records, vol. VIII., p. 93. It is preserved in archives, vol. 30, p. 499.

For some account of the expedition in which the service was rendered which was rewarded by this chapter see the note to resolves, 1696-7, chapter 77.

The following is the petition upon which the resolve which constitutes this chapter was based:—

"To His Exelency Joseph Dudley Esq^r, Captain Generall and Comander in Chief of Her Majesties Province of the Masachusetts Bay in Newengland: And to the Honourable Her Majesties Council with the House of Representatives in Generall Court Assembled. The Petition of Thomas Smith of the Town of Eastham within sd Province Humbly sheweth that whereas your Petitioner had an Indian servant called John manasses which in the late wars went into the service with Major Church in an expedition to the Eastward against the Enemy about the year :1696: and served under Cap^t Jethro an Indian the whole expedition, but by reason of some ill accidents which hapned to-gether with the remoteness of my abode your Petitioner hath never yet received any wages for his sd service neither hath he s^d manasses him self nor any other received for him Which moves your Petitioner to Pray that your Excellency and Honours would Please to take it into your candid consideration and make Effectuall provision that your Petitioner may receive his Just due in that respect, and your humble Petitioner as he is in duty bound shall ever pray &c—

Eastham october the 10th 1704
Archives, vol. 30, p. 499.

THO SMITH." — *Mass.*

* *Sic.*

† Executive Records of the Council, vol. 4, p. 111.

‡ *Mass. Archives*, vol. 122, p. 228.

§ *Ibid.*, p. 231.

With the above petition was filed the instrument of sale in which the Indian servant Manasses and his former master joined in assigning to the petitioner the services of the said Indian for two and one-half years from April 11, 1696, together with the certificates, respectively, of one of the committee on debentures and of Captain John Goreham, next in command under Church in the expedition aforesaid. These are given below:—

“Know all men by these p^{nts} that I Andrew Clerke of the towne of Harwich in the County of Barnstable in New England for and in Consideration of the sum of nine pounds to me In hand be fore the sealing & deliv^y of these p^{nts} by Thomas Smith of Eastham in the County aforesaid well and truly paid of which s^d sum I the said Andrew Clerke do exonerat acquit & discharg him the sd Thomas Smith his heirs executors & Administrators for euer. by these p^{nts} haue freely & absolutly given granted bargained & sold and by these p^{nts} Doth freely and absolutly gine grant bargain sell & Confirme vn to him the s^d Thomas Smith his executors And Administrators & Assigns my indian seruant cald John Manasses for the full terme of two years & a half from the eleventh day of Aprill in the yeare of our lord one thowsand six hundred ninety six thence next insuing. during which said terme of two years & halfe I the said Andrew Clarke do avouch & warant the said John Manasses my seruant vn to the said Thomas Smith his executors Administrators & assigns against all & Enery person or persons whatsoever lawfully Claiming by from or vnder me my executors or Administrators or by mine or their means act title intrest or proceurement, be it farther knowne by these p^{nts} that the said John Mannases doth now owne & acknowledge him self to be seruant to sd Thomas Smith half a yere longer then the time aboue mentioned which sd halfe yere he promised before said Smith bought him, if he would by out his time of his mastar Clark for the which said time the said John Manases doth now in gage faithfully to serue & perfore by these presents. In witnes where of the said Andrew Clerk to his part aboue written & the said John Manases to his part as is aboue written haue severally to these presents set to their hands & seals this thirteenth day of June *And dom* one thowsand six hundred ninety six *

Signed sealed & deliv^{er}ed

In presence of

JOHN THACHER:

DANIEL COLE Ju

ANDREW CLARKE

(Seal.)

The mark & seal of

JOHN L. MANASSES

(Seal.)

The aboue named Andrew Clark and John Manasses apered the date aboue said and acknowledged the aboue written instrument to be their act & deed before

JOHN THACHER Jus. of peace.” — *Ibid.*

“These may Certify that Captⁿ John Goreham had a Debenture Drawn on the Province Treasurer for wages for himself and company under major Church in the year 1696: the sum of 126^{li} 13^s 3^d as appears by the Book of the Comitee of Debentures

Extracted p^r EPHRAIM SAVAGE.” — *Ibid.*, p. 500.

“Barnestable Aprill y^e 8th 1697

To major Walley Comission^r for Warr these may Certifie that to my Certaine knowledge one John manasses an Indian seruant to m^r Tho^s Smith of Eastham went out Eastward y^e last Expedition with major Church & served vnder Cap^t Jethroo an Indian vntill wee Returned to Boston Again

JN^o GOREHAM.” — *Ibid.*

The above petition was read in the House on the ninth of November and sent to the Council for concurrence, and on the eighteenth it was concurred in, and consented to by the Governor.

The order in Council † for the payment of this allowance was passed November 20, 1704, and the province treasurer's account ‡ shows that it was duly paid.

Chap. 95. This chapter is from council records, vol. VIII., p. 93. It is preserved in archives, vol. 71, p. 68.

On the first of April, 1704, Daniel Peirce § of Newbury, a councillor and colonel of the Essex North Regiment, issued to Captain Christopher Osgood of Andover the following order for building the blockhouses mentioned in the preamble to this chapter:—

* Ten days after the execution of this instrument Manasses' term of service to Smith was considerably extended by the following decrees passed at a session of three justices of Barnstable County:—

“John monasses Indian being Acused for breaking vp James panes Grist mill with Joshua wepquinn & thence took about four bushels of Corn & meale: & y^e same night stolec a sheet from m^r whipa a Coat from John Dimack and also a mare from Jacob taylor: being Convict by Evidence so far that y^e Justices do Judg him to bee an Equall actor in sd thefts with Joshua pequin is Centenced to pay according to law & Charg of prosecution which Comes to four pounds and nine shillings not haneing money to pay is Centenced to serue two yeares: to his sd master Thomas Smith hee haueing satisfiied y^e Judgment this 23 of June 1696

this is a true Copy of y^e Court Record

Jn^o Gorham Jus pece

Barnabas Lothrop }

John thacher }

John Gorham }

Jus pece.” — *Mass.*

Archives, vol. 30, p. 500.

“Whereas Thom. Smith made his Complaint that his Servant John monasses did abscond and leane his service near about teen weeks & that hee hath been att Considerable Charge to take his sd seruant & now prays Justice of y^e Court now sitting this 23 of June 1696 in barnstable holden by three of his majesties Justices for the Countey of Barnstable the sd John monasses is Centenced to serue his sd master for for [sic] satisfaction & his Charg the full time of one year to bee added to his former time According to bill of sale

this is a true Copy of y^e Court Record

attest Jo^s Gorham Jus pece

Barnabas Lothrop Jus pece

John Goreham Jus pec.” — *Ibid.*

† Executive Records of the Council, vol. 4, p. 112.

‡ *Mass. Archives*, vol. 122, p. 231.

§ He died April 22, 1704. See extract from the News-Letter in the note to the resolves of 1705-6, chapter 65.

"Sr I am directed by his Excellency our Gouverneur to build three blockhouses in your towne upon the brink of merrimak River one at the fording Place called Deers Jump and one at a fording Place commonly called mr Petters wading Place both Places I am informed is in the Precinct of youre company therefore order that you build them twelve foot wide & fifteen foot long with a fierplace at one end & wel covered that the men may be dry in wet wether as to the charge I am not Informed how it must be but have desired lient Barker to inform you how we at newbury have built ours Sr I am also directed that you do impresse thre abl sofetient men & send them to Capt Harney for the relece of Timothy Hoult and nathaniel Abbott & one more

These are in her majesties name to requier yon to se al Performed forthwith and as soon as the blockhouses be finished I shal take kare that ther be men sent to them at the publick charg to keep them Dat at newbury the first day of aprel in the thurd yeare of her majesties Reign *annoque Domini* 1704

DANIEL PEIRCE Coll^o

To Capt Christopher Osgood at andener." — *Mass. Archives, vol. 71, p. 69.*

Osgood, upon receiving the more definite order hereafter mentioned, detailed for the work a number of soldiers out of his company, of whose length of service, wages and subsistence, respectively, an account appears in the following statement, prepared by him:—

"Due from ye province

for Ten men impressed By Christopher osgood of Andover out of his Company by orders from Coll. Dan^l peirce datt. ye 1st and ye 4th of Aprill. 1704 for the building the two upper Blockhouses in Andover the men sent forth to their work and duty the 6 day of Aprill above^d and Continuing to ye 22. of may which is 6 weeks. the saboath days deducted. thay also finding themselves susteinane. hear follows a List of ye persons comanded to duty as above^d entering the 6 day of Aprill. continuing to ye 22 of may

	£	s	d
Daniell Baxby workman of full age. 6 weeks : wages & susteinane	2	11	0
Ebenezer Barker workman of full age. 6 w. wages & sustenance	2	11	0
John Gutterson workman of full age. 6 w. wages. & sustenance	2	11	0
Thomas Johnson workman. full age. 6. w. wages & susteinane	2	11	0
Timothy heiggett workman. full age. 6. w. wages & susteinane	2	11	0
Nath ^l Abbott workman. full age. 6. w. wages & susteinane	2	11	0
Sam ^l Blancherd full age. guard. 6 w. wages & sust.	2	11	0
will ^m heiggett full age. guard. 6. w wages & sust.	2	11	0
James Barnot son of steephens barnot guard. 6 w. wages & sust	2	11	0
moses heiggett from ye 6. aprill. to. 27. 3 w. wages & susteinane	1	5	6
henery lovjoy son of william lovjoy. on ye guard from aprill 27 to may ye 22. 3 weeks : w & sust	1	5	6

Total is £25.- 10.- 00

for Teem worke and materialls as followeth

	£	s	d
by ephraim stevens 1 day of Teem april 14.	00	04	06
by Jonathan Blancherd 2 days of a Teem april 19. & 22.	00	09	00
by steephens Barnott 2 days of a Teem may. 3. & 8.	00	09	00
by william Johnson 1 day with his Teem	00	04	06
by william Loujoy 1 day with his Teem	00	04	06
by 1 day of walter write with his Teem	00	04	06
by 1 day of Sam ^l pelphs with his Teem	00	04	06
itt p 1400 of bords	02	06	08
itt p 1200 of Large bord noyles	00	15	00
itt p 1100 of Bricks	00	15	05
	05	17	07

The sum Totall of all is 31.- 07.- 07

CHRISTOPHER OSGOOD

then Cap^t of sd Company.

passed at 29. 17. 7." — *Ibid., p. 70.*

It would seem that, besides the above general order, a special and more definite order by Colonel Peirce, dated the fourth of April, was sent to Osgood and his lieutenant, John Barker, to have the blockhouses finished by the last of the month. It was, however, found impossible, from various causes which are mentioned in the following petition, to complete the work before the twenty-second of May, whereupon the time spent in labor by the men from the sixth of April to the twenty-second of May was disallowed them upon the muster-rolls, by order of Colonel Nathaniel Saltonstall, who succeeded Peirce.

Feeling aggrieved by this decision they appealed to the Legislature as their only chance of redress — Osgood and Barker joining in the following petition, which appears to have been accompanied by Colonel Peirce's first order and the bill or statement aforesaid:—

"To his Excellency The Governour: and The hon^d Conncill and Representatives Now in General Court assembled, at Boston: By Prorogation 25 october. 1704

The most humble petition of Christopher osgood and John Barker Both of Andover most humbly sheweth:

That whereas your petitioners Received a speciall order By our hon^d Co^l Daniell peirce (Late deceased) Baring date the 4 day of aprill. 1704. forthwith to impress 20 men Ten out of each Company. and To build 4 blockhouses on This side of merimake River according to such demensions and at such places as was therein prescribed, and To have sd houses to be finished by the last day of Aprill above^d and the souldiers placed in them at their duty on sd. day. and our Returnes to be made to our Collonell of our so doing by the end of aprill above^d we therefore in obedience To our warrant forthwith on the .6. day of aprill impressed souldiers and workmen with them according to our Number appointed and ordered them forthwith to the worke: and in Regard of the Remoteness of the places from the Town. and the danger thay might be exposed to. we ordered some part of the men to

labour at the building, and another small party of them to be scouting The woods along the River: To be a guard to the workmen and the Towne whilst the houses were in building: But by Reason of the extremity of the winter and the Backwardness of the spring, and want of hay for cattle, we were putt to Great difficultys to procure Teemes to Cart our Timber and other materials which we wanted in building, which Greatly hindered our accomplishing our worke by the time appointed, but however we made them habitable and the souldiers placed in them, at their duty the 22 of may from which day we are informed by our Coll that our service must be accounted in the muster Rolle: and all the Time from the 6. of april to y^e 22 of may excluded, so that our Labour in building sd houses, and the good service of the souldiers in scouting and Guarding in that time will not be therein allowed for. Your humble petitioners therefore most humbly pray your hon^{rs} to Consider the premises, and Grant that our service of 20 men may be allowed on the publick account from the 6. day of april to y^e 22 of may, with their sustenance according to their following service we shall not Charge any Cost upon the publick for any of the worke of the building Besides. But only for the worke of Teemes and other materials which we purchased by our money to effect the work, which we shall hearin Give yone hon^{rs} a True and exact account of our disbursments in the whole, for all the 4 houses as followeth, viz.

ittm:	16 days worke of Teemes.	9 days of them with 6: oxen.	and 7		
	days of 4 oxen:				03 - 00 - 06
ittm:	2300: of Bords at 3 ^s 4 ^d pr hundred is				03 - 16 - 08
ittm:	2100 of Bord neiles at 15. pene pr hundred is				01 - 06 - 03
ittm:	1100 of Bricks for The chimneys of two of the houses				00 - 15 - 05

8 . 8* - 10

Itt may be our account of our disbursments may seem to Run higher then some others. but our worke is answerable in the doing: so as to answer the end effectually both for defence against the enemy, and the Comfort of y^e souldiers at their duty: Your petitioners humbly pray your honours to Consider the Reasonableness of the premises, and grant us Reliefe in the matter and your humble petitioners shall as duty bindeth us ever pray for your hon^{rs}!

octobr 23. 1704

CHRISTOPHER OSGOOD
JOHN BARKER." — *Ibid.*, p. 67.

This petition was read in the House on the twenty-fifth, and was probably referred to the committee on claims, since the resolve which constitutes the first paragraph of this chapter was passed in the House and sent up for concurrence on the thirty-first.

On the eighteenth of November the Council concurred, with the proviso added which constitutes the second paragraph of the resolve. The House concurring on the same day it was immediately consented to by the Governor.

The following is the record of the order for a warrant to the province treasurer for payment, undoubtedly in accordance with Colonel Saltonstall's report under this resolve; and the province treasurer's account† shows that it was duly paid:—

"July 26, 1705. A Muster Roll of the Souldiers under the Command of Captⁿ Christopher Osgood, posted at the two upper Block houses in Andover, containing an Account of Wages for their service from the 6th of April to the 17th of May 1704, being six weeks, and for their subsistence during said time, amounting in the whole to twenty four pounds, and for materials and Labour for building the said Block houses five pounds, seventeen shillings and seven pence. In all twenty nine pounds, seventeen shillings and seven pence; having been examin'd by the Commissary General, was presented — And.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the above sum of Twenty nine pounds, seventeen shillings and seven pence to the sd Captain Osgood on behalfe of the several persons to whom it is due." — *Executive Records of the Council*, vol. 4, p. 201.

Chap. 96. This chapter is from archives, vol. 113, p. 364. It is recorded in council records, vol. VIII., p. 97.

The story of the attack on Lancaster, July 31, 1704, is told in the note to chapter 71, *ante*.

The inhabitants of the town applied to the Legislature for a remission of a part or the whole of the province tax last assessed upon them, in the following petition:—

"To his Excellency Joseph Dudley Esq^r Captain Generall & Comander In Chiefe in & over her Maj^{ty} Province of y^e Massachusetts Bay In New England &c: her Maj^{ty} Hon^{ble} Council & Representatives Convened In Generall Assembly a Boston October 25 1704 —

The Petition of y^e Inhabitants of y^e Towne of Lancaster in sd Province

Humbly Sheweth

That Whereas y^e Petitioners the distressed Inhabitants of said Lancaster being under y^e Awfull Rebukes of Gods hand In y^e Manifest Tokens of his Displeasure against us In permitting those Barbarous Heathen to be such a Scourge to us whereby in y^e Summer past we have Sustained such Losses by them that thereby we are greatly Impoverished & distressed & som of us almost Ruined as to our estates having Little or nothing Left for our present sustenance & much Less able to Contribute to Publique Charges, the Towne having Lost severall Hundreds of pounnds estat by y^e Indians in theire Last attack together with y^e Loss of our meetinghouse being burnt by them, & More particularly that Late awfull stroak of Gods Hand y^e Last weeke in y^e Loss of our Reverend minister who was every way Worthy & desirable whose Loss is Ready to sink our spirits also we having been at great charge formerly in settling y^e ministry & having one minister† slaine by y^e Indians & now another ‡ taken away by a more awfull stroake we are still Left destitute

* *Sic.*

† *Mass. Archives*, vol. 122, p. 250.

‡ Rev. John Whiting, slain September 11, 1697. See note to resolves, 1697, chapter 47.

§ Rev. Andrew Gardner, accidentally killed October 26, 1704. See resolves, 1705-6, chapter 41, and note.

& have all againe to procure which will be great Charge & we feare with much difficulty all which Layes us under an Inability of performing what is Required of us Referring to our Publique Charges

The pmisses being Considered by your Excellency & Hon^{rs} with many other Reasons that might be alleadged we Humbley Crave that y^e Late Tax set & p^{ro}portioned upon said Towne being y^e sum of Eighty six pounds may be Remitted or such an abatement thereof made & Granted to sd Towne as y^{or} Excellency & Hon^{rs} Shall in Wisdom see to be Reasonable & Just & such Protection & encouragement afforded for y^e future as may be Necessary & y^{or} Petitioners better enabled to beare up under y^e many Difficultyes we are dayly excecised with & further oblidged as in Duty bound ever to pray : &c :

In behalfe of y^e Inhabitants of Lancaster

Novbr y^e 2d. 1704

JOHN HOUGHTON

JONAS HOUGHTON." — *Mass.*

Archives, vol. 113, p. 363.

This petition was read in the House on the day of its date and referred to the committee on claims. On the eighth the following order was passed by the House (probably as reported by the committee) and sent to the Council for concurrence, but no further action thereon appears to have been taken at that session : —

"Considering the Distressed Circumstances of the Petitioners.

Ordered That the Sums be Deducted out of their Rate assessed upon the heads and Estates of the severall Persons that Sustained said Losse of Houses, or Barns, according to the Select men's List made last Year upon the same and that the Town be Abated Thirty Pounds towards building them a Meeting-House." — *Ibid.*, p. 364.

It appears that the Council deemed it proper to have the losses complained of more definitely specified. Accordingly a message was sent to the petitioners for a more particular statement, whereupon the following supplementary representation of the losses and sufferings of the inhabitants was sent by post to the Speaker : —

"To His Excellency Joseph Dudley Esq^r Captain Generall & Comander In Chieffe &c : In & over her maj^{ty}s Province of y^e Massachusetts Bay in New England her Maj^{ty}s Hon^{ble} Council & Representatives of s^d Province Convened In Generall Assembly at Boston : October : 25th 1704

Whereas Wee the subscribers having Lately Preferred a Petition to you^r Excellency And Hon^{rs} In behalfe of y^e Inhabitants of Lancaster In Short Representing The present distressed condition of said Towne & on that account Humbly Praying for y^e Remission of y^e Late Tax of eighty six pounds sett upon s^d Towne or for an abatement of y^e same, & being Since Informed by Cap^t Thomas How of Marleborough that you desire a more particular Account of y^e Late Losses sustained by severall persons in said Towne this Last summer by Damage don by y^e Indians, we have accordingly Sent : you an account thereof as followeth

July y^e 31th 1704 y^e Indians besett the Towne in severall places & particularly Liev^t Nath^l Wilders Garrison where early in y^e morning one of y^e Indians shott him In the thigh of which wound he dyed y^e same day, & y^e Indians Killed of his cattell Six oxen five coves 3 calves sixteen sheep twelve swine & burnt his Barne & about 12 Load of good english bay

of ephraim Wilders one ox 2 calves 3 coves one horse 15 sheep 2 swine one good dwelling house with 2 fires

Jonathan Wilder two oxen one horse

John Carter 3 oxen one cow one horse 3 swine

Sam^l Carter 3 oxen one cow one horse 2 calves 2 swine one good Dwelling house with 2 fires

Thomas Ross one cow 2 calves one swine one dwelling house with one fire

John Houghton Jun^r 3 swine one Large dwelling house with 3 fires belongin to him & Phillip Goss & about Sixteen pounds of Personall estate belonging to sd Houghton burnt in s^d house

George Heewes two oxen 2 coves

Sam^l Bennitt 3 oxen 2 coves

Jonathan Whetcombe 2 sheep

Simon Stevens one Horses

Jonas Houghton one ox

Jabez flairbank one new barne with about 8 Loads of good english hay

Thomas Sawyer Jun^r one heiffer

John Priest Jun^r one heiffer

all which creatures were then Killed by y^e Indians & Housing burnt by them & many more Creatures wounded & severall Horses that can not yet be found though som of the men that have been out have found where som Horses have been Killed & Rosted, also those cattell that are yet preserved are in great hazard to be Lost for want of Hay especially many of those on y^e east side of y^e River for most of y^e Inhabitants on y^e side have had but Little or no help or protection in theire Garisons but have been necessitated to watch & ward a third part of their time at y^e Least, besides Ranging the woods often when Rumours & Allarms have hapened so that neere halfe our time is spent in actual service : & when we are about our owne work we cannot keep to it but Lose a great part of what we Labour for being forced to get our bread with y^e p^{er}ill of our Lives which hang In Doubt Continually & but Little peace day nor night, & many of us have formerly been greatly Impoverished by y^e Indians & see no probability but if they com againe it will be so for y^e future & having Lost our meeting house being now burnt by them this summer which is a Generall Loss & also y^e los of our Late minister so that we are on all accounts as new beginners & under such discouraging circumstances that our spirits are Ready to sinck & almost dispaire of subsisting another year except we may be under beter circumstances, but still under God Relying on your favourable protection & Relieve hoping for y^e Remission of y^e said Tax prayed for in the aforesaid Petition which if it be granted

will not Respond a sixth part of y^e Loss & damage we have Lately sustained so Leaving y^e Premisses to your favourable Consideration Wee Remaine your Excellencies & Hon^{rs} most Humble servants to comānd —

In behalfe of y^e Inhabitants of sd Lancaster
November 15th 1704

THOMAS WILDER
JOHN HOUGHTON S^r
JONAS HOUGHTON." — *Ibid.*,

p. 365. *

The subject came up for consideration in the fourth session and on the twenty-eighth of December the resolve which constitutes this chapter was passed in the House and sent to the Council for concurrence, where it was immediately concurred in, and consented to by the Governor.

An order in Council * for the payment of this allowance, upon the condition named in the resolve, was passed January 18, 1704-5. This was followed by another order, on the eighteenth of November, 1706, as follows:—

"Pursuant to a Resolve pass'd by the General Assembly at their Session held at Boston the 27th of December 1704. that the sum of Forty pounds be allowed and paid out of the Publick Treasury to the Town of Lancaster, towards building a Meeting House as soon as they shall have erected a Frame for the same & paid the Taxes already levied upon them.

And the Frame for their Meeting house, being now raysed, and a certificate produced from the Treasury that their Taxes are paid.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of forty pounds to Josiah Whetcombe Town Treasurer of Lancaster for the use aforesaid." — *Executive Records of the Council*, vol. 4, p. 335.

The province treasurer's account † shows that it was duly paid.

Chap. 97. This chapter is from archives, vol. 3, p. 105. It is recorded in council records, vol. VIII., p. 97.

For the appointment and doings of this commission see chapter 81, *ante*, and the note thereto.

The narrative of the commissioners, which is thus alluded to by Governor Dudley in his speech at the beginning of this session (December 27, 1704), has not been discovered:—

"I have also lately sent at your desire some Gentlemen to the two Governments of Connecticut & Road Island to sollicit their assistance, The Return of that Negotiation shall be layd before you, from Road Island we are to Expect a further answer from the General assembly there, from Connecticut the Answer is in My opinion by no Means what we might Justly expect from their Number of Men, & the proportion that has been heretofore stated between us, Notwithstanding that Motion to them was accompanied by her Majestyes Most gracious Letters Comanding their Just assistance at all times." — *Mass. Archives*, vol. 108, p. 23.

On the twenty-eighth the commissioners attended at the council board and formally presented their narrative, which was read and sent to the House of Representatives. The next day the resolve which constitutes this chapter was passed and sent to the Council for concurrence. It was concurred in on the day of its passage and consented to by the Governor.

The order in Council * for the payment of this allowance was passed January 18, 1704-5, and the province treasurer's account ‡ shows that it was duly paid.

Besides the above compensation the province treasurer's account § shows that he paid the sum of twenty pounds to defray the expenses of the journey. The order for a warrant for this payment is as follows:—

"Dec. 5, 1704. Advised and Consented That a Warrant be made out to Mr Treasurer to pay the sum of Twenty pounds to Samuel Lynde Esq^r for the support of the Commissioners, unto the several Governments of Connecticut and Rhode Island upon their Journy." — *Executive Records of the Council*, vol. 4, p. 121.

Chap. 98. This chapter is from archives, vol. 71, p. 110. It is recorded in council records, vol. VIII., p. 98.

This resolve applies to paid volunteers under the act of 1703-4, chapter 6, § 2, revived and continued by the act of 1704-5, chapter 9.

* When the Assembly convened in the third session || this year the province had enjoyed a respite from the attacks of the enemy for about two months. On this the Governor congratulated the General Court in his speech at the beginning of the session, attributing this exemption to the punishment Church had inflicted on the enemy in their eastern settlements during the previous spring and summer, to the repulse they received in their attack on Lancaster, and to the vigilance of the scouts and garrisons on the western frontier, but at the same time he warned his hearers not to be too confident of their security, but to "expect a winters march of the Enemy from both sides which the Eastern part especially will be forced to for their own subsistence having neither Corn nor Hunting for their supply." ¶

To prevent danger from such an invasion he declared, "I think it necessary to support the present numbers in the province of Mayn & the frontiers of Essex & Middlesex & to have a much greater force in a readiness to receive any Impression of the Enemy, in any

* *Executive Records of the Council*, vol. 4, p. 141.

† *Mass. Archives*, vol. 122, p. 282.

‡ *Ibid.*, p. 256.

§ *Ibid.*, p. 232.

|| October 25, 1704; but the Governor did not attend until the next day.

¶ October 26, 1704. *Mass. Archives*, vol. 108, p. 19.

of the parts — & particularly to have 100 men sent to West Hampshire which Joyned with the same number from Connecticut may be sufficient there.

I shall give you the present state of the forces in the several parts for this winter season which I hope will be to your satisfaction.*

The Governor's account of the "state of the forces," etc., was undoubtedly laid before the representatives according to his promise, and it seems equally certain that he received their advice to proceed in the manner he proposed and with the reinforcements he asked for, since, in his speech at the beginning of the next session (December 27, 1704), he addressed the Assembly as follows:—

"Gentlemen

Since I parted from you in your Last session I have persued your advice referring to the warr and the Numbers of men in the several parts as near as possible, so as in the whole they are below the Numbers you advised mee, which I was the rather Inclined unto supposing as it has hapned that the Last two months being neither proper for a summer nor a winters march, we might have less Expectation of the Enemy, but the winter being now Confirmed we must Expect to see them both in yorkshire & west Hampshire, of this Last we are already advised that the Enemy Intends an Early winters march & the same is Justly to be Expected in the Eastern parts & nothing will prevent their Incursions so much as to let their own scouts find us in a readiness for them which I shall not Neglect & hope the militia every where will be ready to prevent an oppression in the fronteirs."—*Mass. Archives*, vol. 108, p. 23.

This allusion to the advice he had received and persued is inexplicable by any other supposition than that the Governor had communicated his plans and received a vote of approval by the House, and recorded only in the House Journals, which for that period are lost. The House, however, sent up another message advising that if any of the frontier garrisons be detailed on expeditions their places should be supplied from the Boston regiment and that rations of bread be sent to Concord, Chelmsford, etc., in readiness for a march.¶

Two independent expeditions appear to have been sent out to accomplish the same purpose, and of one of these the following extract from Penhallow, in which he seems to have considered the movement merely tentative, — a reconnoissance in force, — is a brief narrative:—

"The Indian harvest being now gathered, and the winter approaching, the enemy, like beasts of prey, retired to their private cells: but concluding it necessary to discover their head quarters, it was resolved that Col. Hilton, with two hundred and seventy † men, should go to Narridgewalk with twenty days' provision: at which time the country appeared like a frozen lake, the snow four feet deep; yet neither officers nor soldiers were in the least discouraged; but when they came unto the fort, could not discover the least step of an Indian, only a few deserted wigwams, and a large chapel, with a vestry at the end of it which they set on fire."—*Indian Wars*, p. 38.

The forces ‡ on this expedition consisted of two hundred Massachusetts men and twenty friendly Indians, who had been for some time in New Hampshire on other duty and who had been sent from Massachusetts by the Governor, and it was intended to join to them a company of sixty New Hampshire volunteers, besides a reinforcement of one hundred men from Massachusetts. The whole force was to be under the command of Lieutenant-Colonel Hilton and Major Shadrach Walton. This expedition started § from Piscataqua February 14, 1704-5, with three hundred men.

With the tidings of the departure of this force the Governor received information which led him to submit to the Council, for their advice, the project of sending out a company in a coaster to molest the enemy along shore. The following is the record of his communication to them and of their advice thereupon:—

"Feb. 20, 1704-5. His Excellency acquainted the Council, that Captⁿ Larraby, lately come from Piscataqua gave him an Account, that the Forces designed to visit the Indian Fort at Norridgewock, set out on their march thither on Wednesday, the 14th instant, and may be supposed to be gotten by this time from Casco; and that several Fires having been descried along the sea-side Eastward, it's concluded a number of Indians are drawn thither to seek for subsistence. Upon the Report whereof several spoke to the s^t Larraby, that if the Governour would order him to go out with a Sloop, wch he might have at that place, he might raise a Comp^y of Forty or Fifty Volunteers in that Town and places adjacent to attend him in a short Expedition along the Eastern Coast to molest the Enemy by the sea-side which would greatly distress them, now our Forces were march'd into the Country. And ask'd their advice therein.

* October 26, 1704. *Mass. Archives*, vol. 108, p. 19.

¶ *Mass. Archives*, vol. 71, p. 111.

† Farmer and Moore (Hist. Coll., vol. I., p. 246) agree with Penhallow in this estimate; but the News-Letter and the Governor in his message to the representatives, February 22, 1704-5 (both of which are printed, *post*), concur in the statement that the number was at least three hundred.

‡ Provincial Papers of New Hampshire, vol. II., pp. 432-434. The Indians here mentioned were undoubtedly the "Moheags" applied for by Dudley in his letter of the fourth of September, printed in the note to chapter 81, *ante*. The Governor applied again, a week later, in a letter from which the following is an extract:—

"Sir, — I continue to thank it very much for the service that I might have fifty Moheeges. They cannot spend their winter better then to eat my bread & flesh at Neckawannock."—*Winthrop Papers*, part V., p. 264.

§ "Boston, On Wednesday the 14th Instant, Lieut. Col. Hilton & Maj. Walton marched from Piscataqua with 300 men volunteers with Snow Shoes for Narridgewalk the Head Quarters of the Eastern Indians at 250 miles distance, with 20 days Subsistence in their Snap-sacks, who we doubt not if the Weather allow will see that place in 10 days from their setting out. And His Excellency the Governour has at the same time a Cruiser on the Shore of Acadie to distress the Enemy there. The Discovery of their Head-Quarters will give measures for the Summers proceeding. We have had no mischiefe from the Enemy these 6 months past, notwithstanding all their Brava's to visit us once in two months."—*Boston News-Letter*, No. 45. February 19 to 26, 1704-5.

For an account of the cruise to Acadia see note to chapter 108, *post*.

The Council Advised, That such an expedition be encouraged and put forward." — *Executive Records of the Council, vol. 4, p. 146.*

Upon receiving this advice the Governor submitted the project to the Assembly (which convened in its fifth session on the next day), as shown by the following entry: —

"Feb. 22, 1704-5. His Excellency sent a Message to the Representatives by John Phillips Esq^r & the Secretary to acquaint the House That, pursuant to their Advice the last Session for a Winter March to visit the Enemies Head Quarters Major Walton * march'd from Newickawonock on Wednesday the fourteenth Currant with about Two Hundred & forty Men of our Forces, & Lient. Coll. Hilton with a Company of Sixty odd Men of New Hampshire Forces followed the next Day in Order to visit Norridgewock, & supposes they march'd from Casco on Monday the 19th Curr^t And that a Vessel lately coming along the Eastern Shore saw several Fires at Pemequid & to the Westward of it supposed to be Indians drawn to the Sea Side for Subsistence, Upon which Intelligence Cpt. Larrabee informing that he might raise a Company of Volunteers at Newbury & parts adjacent to go & distress them, A Sloop lying in Readiness there to embark them, And that His Excellency with Advice of the Council had encouraged the Design & sent away Cpt. Larrabee † to Newbury to put it forward, And to know if the House had any Thing further to advise in that Affair." — *Council Records, vol. VIII., p. 106.*

Of the achievements of the expedition under Hilton and Walton, and of its return, the News-Letter gives the following account: —

"Piscataqua, March 8th. Our Forces under the Command of Lient. Col. Hilton, & Major Walton returned last night from *Nariguak* the Head Quarters of the Eastern Indians, who advise of a large Fort, Meeting-house & School-house that were there erected, the Fort encompassed 3 quarters of an acre of ground with Pallisado's, wherein were 12 Wigwams but no Enemy; neither the discovery of any Tracks seen, but of 3 or 4 supposed to be there about 3 weeks since, no plunder excepting a few Household Utensils of little value: The Meeting-house was built of Timber 60 Foot long, 25 Foot wide, & 18 Foot studd ceiled with Clapboards, in it were only a few old Popish Relicks; the School-house lay at one end distinct, all which they burnt, near to it was a Field of Corn ungathered, which may be imputed to the Enemy's desertion by the consternation that seized them at the Ransacking of the Eastern *French & Indian* Settlements the last Summer, our men hail and lusty, and if need were, fit for a new Enterprize." — No. 47.

The other expedition, consisting of about one hundred and fifty men, ‡ proceeded from Dunstable, in two companies. One, commanded by Captain Benjamin Stevens, started January 9, 1704-5, and the other, commanded by Captain William Tyng, started six days later. Both appear to have returned before the middle § of March.

Unlike the larger force, which left Piscataqua about a month later and returned in perfect health and spirits, both officers and privates in this earlier expedition appear to have suffered extremely from the hardships and privations of the march.¶

The following extracts from the executive records of the council are all that have been found of record throwing light on this expedition, which is not mentioned by Penhallow or Belknap: —

"April 3, 1705. A Muster Roll of the Foot Company under command of Captⁿ William Tyng upon their march to Norridgewock &c^a containing an Account of Wages for their service from the 15th of January to the 14th of March 1704, being eight weeks and three days, amounting to the sum of one hundred eighty four pounds six shillings and seven pence, whereof thirty nine pounds, nine shillings and two pence being subducted for Commissary; rests one hundred forty four pounds, seventeen shillings and five pence having been examined by the Commissary General, was presented — and.

Advised and Consented: That a Warrant be made out thereupon to the Treasurer to pay ^{s^d} the above sum of one hundred forty four pounds, seventeen shillings and five pence to the said Captⁿ Tyng and Comp^y accordingly." — *Vol. 4, p. 162.*

* "Aug. 15, 1705. A Muster Roll of the Foot Company in Her Maj^y's service under the Command of Major Shadrach Walton Captain examined by M^r Commissary General, was presented, containing an account of Wages for their service from the 27th of October 1704, to the 28th of June 1705 being thirty five weeks amounting in the whole to eight hundred and twelve pounds, sixteen shillings and six pence, whereof three hundred and twenty pounds nine shillings being subducted for Commissary, rests four hundred ninety two pounds, seven shillings & six pence.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the above sum of four hundred ninety two pounds, seven shillings and six pence to the ^{s^d} Major Walton & Company accordingly." — *Executive Records of the Council, vol. 4, p. 210.* See the province treasurer's accounts, Mass. Archives, vol. 122, pp. 246 and 270.

† "July 4, 1705. A Muster Roll of the Foot Company under command of Captⁿ Benjamin Larraby, containing an account of Wages for their service from the 26th of Febr^y 1704 to the 27th of March following, amounting to eighty seven pounds eighteen shillings and nine pence, whereof one pound, eighteen shillings and eleven pence being subducted for Commissary, rests eighty five pounds, nineteen shillings and ten pence; having been examined by the Commissary General, was presented. And.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the ^{s^d} sum of eighty five pounds, nineteen shillings and ten pence to the ^{s^d} Captⁿ Larraby and Company accordingly." — *Executive Records of the Council, vol. 4, p. 190.* See the province treasurer's accounts, Mass. Archives, vol. 122, pp. 248 and 269.

‡ "By His Excellency's Direction, Capt. Tyng and Capt. Stephens with 150 men with Snow Shoes march'd from Dunstable eight days ago into the Woods in search of the Enemy." — *Boston News-Letter, No. 41. January 22 to January 29, 1704-5.*

§ Besides the dates given in the orders on their respective muster-rolls, other proof of the time of the return of those who were nursed or received medical treatment appears in the charges of their attendants for services rendered before the seventeenth of March. See notes to resolves, 1705-6, chapters 55 and 59.

¶ See resolves, 1705-6, chapter 55, and note.

¶ See province treasurer's accounts, Mass. Archives, vol. 122, pp. 220, 245, 256.

"April 17, 1705. A Muster Roll of the Foot Company under the Command of Captⁿ Benjamin Stevens, containing an Account of Wages for their service on their march to Norridgewock &c from the ninth of January to the 10th of March 1704. being eight weeks and five days, amounting to two hundred ninety six pounds and eleven pence, whereof thirty nine pounds one shilling and six pence being subducted for Commissary, rests two hundred Fifty six pounds nineteen shillings and five pence; having been examined by the Commissary General, was presented — And.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay * the above sum of two hundred fifty six pounds nineteen shillings and five pence to the s^d Captain Stevens & Comp^y accordingly." — *Ibid.*, p. 169.

One of the purposes for which Governor Dudley undertook his voyage to Piscataqua, before the departure of the mast ships, was to meet the expeditions on their return from Norridgewalk, as appears in the following entries:—

"March 3, 1704-5. His Excellency acquainted the Council, that he intended to go to the Eastward the beginning of the week to receive the Forces at their return from their March to Norridgewock, and to make a reform, and reduce them to their standing for the summer.

Advised and Consented. That a Warrant be made out to the Treasurer to advance and pay the sum of thirty pounds to M^r John White,† for the support of his Excellency's Attendants and Guards on his Journey into the Eastern parts of this Province for Her Maj^y's service." — *Ibid.*, p. 152.

"June 27, 1705. A Muster Roll of Wages for Captⁿ Stephen Williams and ten Troopers that attended his Excellency as a Guard on his voyage Eastward in March past &c. by the space of Fourteen days, and the s^d Captⁿ Williams & five Troopers attending his Excellency as a Guard Eastward in May following, by the space of three weeks and four days, amounting in the whole to Twenty one pounds, nine shillings, and six pence, was presented — And.

Advised and Consented, That a Warrant be made out to the Treasurer to pay ‡ the said sum of Twenty one pounds, nine shillings and six pence to the said Captⁿ Williams, on behalfe of himselfe and Troopers accordingly." — *Ibid.*, p. 186.

In Governor Dudley's second proclamation for thanksgiving to be kept April 12, 1705, he mentions the safe return of the forces sent to Norridgewalk as one of the additional causes for "solemn acknowledg^{mt}." See note to chapter 120, *post*.

Chap. 99. This chapter is from council records, vol. VIII., p. 99, and archives, vol. 119, p. 221.

The amounts abated and the reasons for allowing the several abatements appear specifically in the following statement, which was prepared, practically, as a preamble to the resolve:—

"Boston January 24 1704

Whereas the Treasurer haveing used his utmost Endeavours in collecting the Excise of this County of Suffolk

Yett there are some persons y^t remayn uncollected, there circumstances being such that the Treasurer desires the opinion of this honorable Court whether it's thought reasonable that it be exacted from them or there surety, There circumstances being as followeth

The Excise begining June 1701. Ending June 1702

Thomas Davis being taken of his business by sickness, Lost the use of his Limbs rendred him uncapable to pay. the sum he was sett att being	2 " . . . -
Constance Palfrey both he & his wife did not live out one third of y ^e year, y ^e sum he was sett att being	5 " . . . -
Giles Roberts was taken by y ^e french & coming home sick continued soe y ^e whole winter y ^t brought him into such impoverishing circumstances rendred him uncapable to pay y ^e sum he was sett att being	5 " . . . -
Sarah Wattkins widdow being extream poor	1 " 10 " -
	13 " 10 " -

Excise begining June 1702. Ending June 1703

The widdow Sarah Harris did not live above one third of y ^e year, her licence being £6 " . . . - her son M ^r William Harris tenders to pay £2 " . . . -	6 " . . . -
Thomas Savage Goldsmith he his wife & family removed out of y ^e Country to Bermudas	0 " 10 " -

— *Mass. Archives*, vol. 119, p. 221.

Chap. 100. This chapter is from archives, vol. 71, p. 114. It is recorded in council records, vol. VIII., p. 100.

The "motion" referred to in this resolve constinties chapter 105 of the resolves of the year 1703-4. The following certificates of the captain in charge of the Sconce give the names and dates of service of the two sentinels:—

* See province treasurer's accounts, *Mass. Archives*, vol. 122, pp. 221, 245, 269.

† The payment of this warrant of and two others was entered in the province treasurer's account in one item, as follows:—

"Paid M^r Jⁿs White & M^r W^m Dudley for y^e Support of his Exceley Attendants & Guards in his Intended Journey's to & from y^e Province of Maine to visit those parts of his Govern^{mt} at three Several times in August March and April . . . 90 " . . . -"

— *Mass. Archives*, vol. 122, p. 228.

‡ See province treasurer's account, *Mass. Archives*, vol. 122, p. 255.

"These may Certify that Will^m Philps hath served as a private Centanall at hir mag^{ty} south fort in Boston from the 6th of Aprell: 1704: tell y^e 23 of Novem^r being Thirty Three: weeks, att Ten shilling pr Weeke as pr agreement he provideing for himselfe provision: Given vnder my hand in Boston this 28 - day of Novemr 1704;

Archives, vol. 71, p. 115.

TIM^o CLARKE Capt." — *Mass.*

"These may Certify that Peter Warrin hath served as a private Centanall att hir mag^{ty} south fort in Boston from the 6th day of aprell 1704: tell the 16th day of Novem^r being thirty two wekes: att ten shillings pr weeke as pr agreement: he Provideing for himselfe provision

Given vnder my hand in Boston this 28th day of Novemr 1704:

TIM^o CLARKE Capt." — *Ibid.*,

p. 116.

Upon the following order a warrant to the province treasurer was issued for paying the amounts as above certified, and the same were accordingly paid: * —

"Jan. 18, 1704-5. To each of the two Centinels that by motion of this Court, were placed as a Guard to the Publick Stores of War, lodged in the Sconce in Boston, ten shillings & week for their Wages and subsistance for the time certified by Capt^o Timothy Clarke, the one being thirty two weeks, and the other thirty three weeks, amounting to Thirty two pounds, ten shillings to be paid to Capt^o Clarke on their behalfe." — *Executive Records of the Council, vol. 4, p. 141.*

The entry of payment in the treasurer's books includes the further sum of £5 9s. 8d., paid agreeably to the following order of the Council: —

"Nov. 28, 1704. An Accompt was presented by Capt^o Timothy Clark Commander of the South Fort in Boston, for charges in making up a Box for the Centinels, for firing & Candles &c^a amounting to Five pounds nine shillings and eight pence.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of Five pounds, nine shillings & eight pence accordingly." — *Ibid.*, p. 116.

Subsequently a warrant was issued for paying two sentinels (Salter having succeeded Warren), as follows: —

"Jan. 17, 1705-6. An Accompt of Timothy Clarke Captain of the South Fort in Boston, for firing and Candles for the two Centinels allowed as a Guard upon the Magazine and stores lodged at the sd Fort, and certificates of the service of William Phelps and Malachi Salter the two Centinels, Salter from the 17th of November 1704. to the 17th of November 1705. and Phelps from the 23^d of November 1704. to the 23^d of November 1705. and their subsistance, the whole amounting to forty nine pounds, nine shillings and ten pence, was presented — &.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of forty nine pounds, nine shillings and ten pence to the sd Capt^o Timothy Clark on behalfe of himselfe & the Centinels afore-named." — *Ibid.*, p. 259.

The province treasurer's account † shows that the above amount was duly paid.

These sentinels continued on duty the next year, for which they were ordered to be paid at the same rate, as appears by the following entry: —

"Dec. 28, 1706. A Certificate of the service of Malachi Salter and William Phelps, the two Centinels allowed as a Guard upon the Magazine & stores lodged in the Sconce or South Fort in Boston: Salter from the seventeenth of November 1705 to the 17th of November last, and Phelps from the 23^d of November 1705. to the 23^d of November last, was presented by Capt^o Timothy Clark Commander of the sd Fort, their pay and subsistance for the sd time, amounting to twenty two pounds, two shillings each.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the sum of Forty four pounds, four shillings to the said Captain Clarke, on behalfe of the two Centinels above named." — *Ibid.*, p. 356.

The above amount was paid; ‡ and by another order of the same date, on the same page, a warrant was advised to be made out for paying Captain Clarke "for Cartridge Paper, cleaning of small armes, firing and Candles for the Two Centinels," which was also duly paid § by the province treasurer.

Chap. 101. This chapter is from archives, vol. 30, p. 501. It is recorded in council records, vol. VIII., p. 100.

By the twenty-third of June the commissioners from Massachusetts to treat with the Five Nations had been appointed, as shown in chapter 23, *ante*. An appropriation § for a suitable present to the Indians had been made as early as the fourteenth, and invested by the twenty-first of September. The subject of appointing this commission || was first introduced in the Legislature on the eighth of June, but, apparently, it had been first suggested by Johannes Schuyler in a letter to Governor Winthrop, dated April 24, 1704, as follows: —

"MAY IT PLEASE YOUR HON^r. — Itt was a surprise to us to hear from Colonell Samuel Partridge of Hatfield what murder & destruction the French & Indians from Canada hane committed at Dearfield in New England, of which M^r John Livingston on his arrival here gave us an exact account. Collonell Peter Schuyler, one of her Maj^{ty} Council for this Province, being upon his Excellency our Govern^r desyng gone to New Yorke, in whose absence I doe make bould to give your Hon^r y^e trouble of these few lines and my opinion of y^e Five Nations of Indians: who have these severall years, by their propositions to our late & present Governour and at other times, enquired for their brethren of Virginia, Maryland

* *Mass. Archives, vol. 122, p. 233.*

† *Ibid.*, p. 250.

‡ *Ibid.*, p. 273.

§ Chapter 8, *ante*.

|| Chapter 5, *ante*.

and New England, saying that in former years they used once in a year or two to come & renew y^e covenant chain, but now none of them comes to see us, so that I doubt they will not be verry willing in assistance at first against y^e Indian enemy. And I conceive it would not be amiss (if his Excellency y^e Governour of Boston thought fitt) to send some gentlemen of his government here this summer with some presents, to renew y^e covenant chain with them, whereby encouragement may be given them and persuaded to lift y^e hatchet against y^e Omagonquees or Eastern Indians, which would not only tend to her Maj^s service but also for y^e quiet & ease of y^e inhabitants of your fronteers. These, with my humble respect to your lady, is what humbly offers at present from him who takes leave to subscribe himself with all sincerity

Your Hon^{rs} most humble & most obedient servant,

JOHANNIS SCHUYLER." — *Win-*

throp Papers, part V., p. 194.

A letter from William Whiting to Governor Winthrop, dated at Westfield, May 25, 1704, discloses the fact that the writer had received from Colonel Schuyler the impression that towards the end of May the people at Albany seemed "not willing their Indians should meddle or concern themselves, but let us alone to manage the war wth Canada, as they have done formerly;" but, at the same time, that they would "advise us of any approaching danger they shall discover."*

The Governor of Connecticut had thought of writing to Cornbury for assistance, as mentioned in the note to chapter 71, *ante*, and had prepared a letter† for that purpose, which was submitted to the committee of war who dissuaded him from sending it. In the mean time he received a letter from Deputy-Governor Treat of Connecticut, from which the following extract is taken:—

"5th Whether not very probable that those Indians that have so long professed friendship to us & so often in y^e last war gave good proof thereof, will if sutable treated redly either go themselves against y^e enemy and be a means to divert them from us, or joine with such forces as might be sent from these Governements for that end. 6th Whether in order to this it be not advisable that the Gov^t of Boston and our Gov^t boath treat my Lord concerning this affair, to reminde him of y^e necessity of som such measures to be taken by land against our common enemies, since he concludes it not advisable to attempt any thing against them by sea; and to agree speedily to send sutable messengers from each of y^e Governements to be present with my Lord, or those he shall appoint to treat y^e s^d Indians, & to have his spedie answer what he will do in this weighty affaire. 7th Whether if his Lordship do refuse to concern himselfe with Boston and us in this business, it be not best for them and us notwithstanding to send messengers to treat with y^e s^d Indians upon this account, y^e we may y^e better know what we have to trust to if they will not joine with us in this war. And doubtless shall be y^e better satisfied to bear y^e burthen we now do when we find no way to ease it, or be moved y^e more earnestly to petition y^e Queens Majestie for relief in this case; which is the needfull under our present circumstances from him who am S^r,

Your humble servant,

R: TREAT. D. G.

MILFORD, June 13: 1704." — *Ibid.*, p. 224.

These suggestions were reinforced by the following further recommendation from Treat:—

"MILFORD, June 17th 1704.

"... Upon this occasion severall of the principall persons of both y^e s^d Committes met here... who humbly advise not to send it [the letter Winthrop had prepared for Cornbury] forward at present, but pray your Hon^r would take into your farther consideration whether it be not more advisable that my Lord be treated in some such way as was proposed in my last to you, & are very desirous y^t y^e Moheggs & Five Nations be treated & by some means or other ingaged in y^e present warr against our enemies. . . ." — *Ibid.*, p. 225.

The design to confer with the Five Nations seems to have become generally known by the twentieth, for on that day Whiting wrote to Winthrop proposing to include the scalps taken at Cowassie as part of Connecticut's present to the savages, as follows:—

"This also will furnish your Honour wth sutable presents for the Five Nations, if in your wisdom it be thought best to engage them, vizt the scalps each nation one, w^{ch} Col. Schuyler sent me word were acceptable and oblidging." — *Ibid.*, p. 228.

Before sending off the gentlemen designated as commissioners to negotiate with the Five Nations, Dudley deemed it his duty to obtain the consent of Lord Cornbury, governor of the province in which the Indians were domiciled; and on the day after their appointment he wrote to Winthrop, informing him that he had already written to Cornbury and expressing his desire that Connecticut would join with Massachusetts in the proceedings of the conference, as follows:—

"[JUNE 24. 1704.]

"... I desire also you will, as usual, joyn with this Govern^t in a renewall of or friendship with the Maquas. The Assembly here have ordered a present of two hundred pounds to be made them, and there will be two Commissioners appointed for that affayr. If you please to joine in it, I am of opinion this is the propper time, and have written to my Lord Cornbury thereupon; and shall attend his answer, and then set the time exactly." — *Ibid.*, p. 231.

Dudley's suggestion appears to have been approved by the councils of safety of New Haven and Fairfield counties, whereupon, on the twenty-eighth, the Governor and council addressed the following communication to the committee of war at Hartford:—

* Winthrop Papers, part V., p. 211.

† *Ibid.*, p. 222.

“NEWLONDON, June 28th 1704.

... You have here inclosed a copy of a letter which the Gov^r received from Coll: Dudley last Saturday; and it is sent you for your opinion on the whole, especially that paragraph concerning renewing our friendship with the Five Nations. The gentlemen of the Council of Safety in the counties of New Haven and Fairfield, have sent the Govern^r their opinion that it ought not to be neglected, and moved earnestly for it in their last letters. The Council here agree with them and recommend it to your care to search the records and send the Govern^r word what our proportion of encouragement to the 5 Nations of Indians, in conjunction with the Massachusetts Province, used to be. The Govern^r had concluded to visit the frontiers this week, but considering the necessity of his Hon^r being here, that the treaty with those Five Nations proposed by Govern^r Dudley may be agreed with him by the stated post, concerning which (and some other concerns relating to the war, which the Council wrote about to Col. Dudley by Mr Eliot, as you had advice), the Govern^r expects to hear from his Excellency by the next post, the Council here have persuaded his Hon^r to defer his visiting of you a little longer.

By order of the Govern^r and Council,

Signed RICH^d. CHRISTOPHERS.” — *Ibid.*, p. 232.

A letter containing the following reply to the above letter was sent from Hartford on the third of July:—

“... Wee have, according to yo^r Hon^rs order, taken pains to serch the records, & find in o^r treatment, in conjunction with Boston & York Govern^rs, did bestow as a gratuity 50th cash to yo^r Five Nations & was at great charges in sending 60 men to wait on the gent^l in gent^l from the Govern^rs; & do not incline to go beyond said sum of 50th, & not meddle in sending souldiers to Albany, only a gent^l or two & some to wait &c. . . .

Signed by order of Committee of War,

CALER STANLY, Senior.

We were 50th and Boston Govern^r 200 pound, Anno: 1694, & that seems to be an equall proportion; its thought they are four times as big as wee.” — *Ibid.*, p. 236.

Up to this time Cornbury had failed to reply to Dudley's letter, as shown by the following extract from a letter written by the latter to Winthrop:—

“ROXBURY, 26 July 1704.

... I have not yet my Lord Cornburys answer referring to visit of the Maquas, but shall immediately express it when I have it.” — *Ibid.*, p. 244.

It was more than a month after this that Dudley notified Winthrop that he had obtained Cornbury's permission. The following is an extract from this letter:—

“PISCATAQU, 28 August 1704.

SR.—I have now concluded, with my Lord Cornbury's consent, to send my Commissioners Townsend & Leveret from here towards [New] York this day fortnight, being the eleventh of September, & desire your gentlemen will joyn them in their way, or at York or at Albany, where you please, with their present, & I hope they will move the Maquas to some advance in the service.” — *Ibid.*, p. 261.

The Governor of Connecticut consented to choose agents to coöperate with the Massachusetts commissioners in the proposed treaty of alliance, and these were the “gentlemen” * whom Dudley mentions in the above letter as expected to join the commissioners from Massachusetts.

Having received no response Dudley wrote again to Winthrop on the fourth of September, intimating that he was willing to change the route to be taken by the Massachusetts commissioners if it would be “any ease” to their associates from Connecticut. The following is an extract from this letter:—

“BOSTON, 4 September 1704.

SR.—I wrot you this day sevennight from Piscataqu that the gentlemen from this Province for the entervew at Albany should proceed from hence on Monday the 11th instant to Road Island & from there by water to York, in order to go up the river to Albany. I desire, if you have not that letter, that you will please to take this advice thereof and to order your gentlemen with their present to joyn us at York or at Albany; or if you please, that it be any ease to your gentlemen, if I have notice of it before Monday noon next, our gentlemen shall call at New London there to receive them.” — *Ibid.*, p. 262.

On the tenth Winthrop wrote to Cornbury, and to Colonel Peter Schuyler at Albany. His letter to the latter was as follows:—

“... I have lately received a letter from Gov^r Dudley that he has obtayned leave of my Lord Cornbury to send messengers to the 5 Nations & has desired me to joyn with him therein. I have accordingly appointed [blank] and Mr John Livingston, your nephew, to visit the 5 Nations with a small present, such as can be procured upon this sudaime, and must recommend them to your favour for assistance & directions, and to introduce them & their present to the best advantage. I am very sensible of your great interest with the 5 Nations, and your capascety to oblige them to take up the hatchet in behalf of these Governments, and by their scoutes (as formerly) they will be able to give the enemy such a diversion as will oblige them to keep at home. And truly I think noe better meanes can be proposed for the safety of the county of Hampshire &c, most perticularly exposed to their incursions. I remember in a late treaty with the 5 Nations by Collonell Fletcher, and some gentlemen from Boston & from this Government, he swept up all the returns the Indians made, web was a dishonor to those gentlemen, that they could not shew that the Indians did answere their propositions. But I hope you will order otherwise now, and that whatever returns they make, tho' never so triviall, be delivered to our gentlemen distinct from what are made to the gentlemen of Boston. This being the first adventure your nephew makes in a publick capascety, I shall be sorry if he should not returne with some

* Nathan Gold and the Governor's son-in-law, John Livingston, were the commissioners eventually chosen.

success & reputation. 'Tis much in your power to promote it, and I will not doubt your favour to him in what may be to his advantage. I wish a good success to this affair, and with my hearty salutations to your hon^d mother, yo^rself & lady, Madame L., yo^r brothers & sisters, and where you please to dispose of me, I am
Yo^r most affectionate faithfull servant,

J: W." — *Ibid.*, p. 263.

It would seem that at the moment of writing the above either Gold had not been selected as the associate of Livingston on the commission or had not accepted the appointment.

The letter to Cornbury, of which no copy has been found, appears to have been delivered by Livingston in person, who followed the former as far as Philadelphia for that purpose. The following undignified letter from Cornbury to Winthrop, in reply, indicates that he did not cordially approve of the project of the New-England governors to join independently of him in a conference with the Indians within his government, and that, either on that account or in resentment of some previous real or fancied misbehavior of the Connecticut messengers while within his jurisdiction, he was betrayed into an act of incivility unworthy of one holding his position:—

"BURLINGTON, 7th or the 25th 1704.

SIR,—Yours of the 10th instant was delivered to me by Mr Levingstone at Philadelphia on Saturday last. As for your sending to the Indians in conjunction with Collonell Dudley, I have no great objection to make to it; only great care must be taken in what is to be said to them. Therefore I should have thought that Collonell Dudley's messengers, and yours, should have been directed to communicate their directions to me that I might have seen whether their instructions don't clash with what I last said to the Indians. I am very sorry I must complain of both your messengers, and indeed if they had not brought that letter from you, I would have dealt at another sort of rate with them; but out of respect to you I would not. The first, Captain Gold, I should have taken care of for his pretending to preach and to cant in our streets here. The second, Mr Levingston, I would have made an example of for seducing our souldiers away from Albany last summer, when he went up thither under pretense of seeing his mother; upon whose persuasions severall of our men have deserted and are gone into your government, where they are not only received, but protected. I shall be forced to acquaint the Government at home with these proceedings, and Mr Levingstone had best take care how he manages himself upon this journey. I have given him fair warning & I hope he will be wiser than he has been; for it is certainly true that nothing should have saved him this time from the punishment he deserves, but purely the respect I shall always be ready to shew you upon all occasions, being

S^r, your most humble servant,

CORNBURY." — *Ibid.*, p. 267.

The tone of this letter gives it the appearance of ill-concealed opposition to the whole scheme of engaging the Indians as active allies of New England in the prosecution of the war.

The following extract from a letter to Governor Winthrop from Deputy-Governor Robert Treat gives an interesting glimpse of the difficulties encountered by the Connecticut government in procuring in New York or Albany a gift* to the Indians suitable for the occasion:—

"HARTFORD, Sept^r 12th 1704.

HON^{ble} SR,—Having opportunitie by the bearer hereof, Sam^l Gilbeer, I thought good to acquaint your Hon^r with some difficulties we meet with in procuring the present for the Albanie designe, and our late order concerning the souldiers in Hampshire countie. Money is not to be had for the purchasing of a present without standing securitie, and such commodities as are proper for that service, viz^t duffils and other cloths, we understand is not to be had neither at York nor Albanie. In so much that the Albanians talke of fetching such things over land from Boston. We have sent to Boston to procure such things upon the countreys credit, but I doubt too late. We are using our best indeavour to accomodate the gentlemen with money for their expences, that are designd for the service, and with the present, but we find it very difficult. Cap^t Gold that we pitcht upon to be one of the commissioners hath accepted, desiring that he may be informed when and by what way he should be moving forward with M^r Livingston to meet the Boston gentlemen, and what his orders are." — *Ibid.*, p. 264.

The time of departure of the commissioners, as prefixed by Dudley, was delayed a few days, but at the appointed time he wrote† to Winthrop, "I have desired the agents of this Province to expect yours at York or Albany, & to treat them as brethren." On the fifteenth, having received their credentials and the fifty pounds expense-money advanced to them, as shown in the note to chapter 35, *ante*, and having completed all other preparations for their journey, they set out from Boston, as appears by the following entry in the diary of Judge Sewall, who, it seems, improved this opportunity to transmit through them a letter of credit to the captive minister of Deerfield, then at or near Quebec:—

"Sept^r 15. [1704.] . . . At Dedham met the Commissioners going to New-York, Col. Townsend, Mr. Leverett: Gave Mr. Leverett my Letter to Mr. Williams: In it was a Letter of Credit for some Money not exceeding Ten Ounces." — *Vol. II.*, p. 116.

* The following extract from a letter written by Cornbury to the Lords of Trade November 6, 1704, reflects the general sentiment as to the necessity of gifts in winning the favor of the savages:—

"I Intreat Your Lord^{sh} to Intercede with the Queen that some presents may be sent over for the Indians, for if we must buy them here they will cost three times the price they will cost in England and sometimes the goods proper for the Indians, are not to be got here for money, such as light guns, Duffles, Strowles, Kettles, Hatchets, Stockings, Blankets and powder; and till Canada is reduced, we shall never be able to keep the Indians steady without presents." — *Documents Relating to the Colonial History of the State of New York*, vol. IV., p. 1123.

† Boston, September 11, 1704. Winthrop Papers, part V., p. 264.

The route by way of Connecticut had been chosen as well to secure the companionship of the Connecticut commissioners in their progress up the Hudson as to avoid the risk of travelling the overland route to Albany which, at that time, could not be safely followed except under an expensive military escort. They were accompanied by Nathaniel Hubbard* (H. C. 1698) as chaplain, and by other attendants. They arrived at New York, in season to sail for Albany on the twenty-second, and had not been heard from on the second of October, according to the following items in the News-Letter:—

“*New-York, Sept. 25. Col. Townsend & John Leveret Esqrs. Arrived here last week from Rhode-Island, & on Fryday last they sayled for Albany.*”—*No. 24.*

“*New-York, Octob. 2. . . . We have not heard from Albany since Col. Townsend and Mr. Leveret with the other Gentlemen of Boston went up.*”—*No. 25.*

The following further item appeared one week later:—

“*New-York, Octob. 9. . . . The Boston Gentlemen are not yet arrived from Albany.*”—*No. 26.*

A week later still, the following item gave the first published intimation of the probable date of the conclusion of the conference:—

“*New-York, Octob. 16. . . . A Sloop arrived here from Albany on Fryday last, [the thirteenth] the Indians were not come when they left it, and they say it would be a fortnight before the Boston Gentlemen would come from thence.*”—*No. 27.*

No further report of the progress of the Massachusetts commissioners has been discovered; but the Governor of Connecticut received, successively, letters from Livingston and Schuyler, and from the Connecticut commissioners, jointly, as follows:—

“ALBANY, *y^e 3^d of Octobr 1704.*

HONR^d SR,—According to our last from Fairfield we held on our journey and arrived here on Sabbath day last at noone, not knowing but the Indians wear com in, but are not yet, but are expected on the morrow. Wee meet with very civill treatment from the gentlemen of Albany and have good hopes of an honorable and satisfactory accomplishment of our negotiations. Through the mercys of God we are hereto in helth, tho *y^e* bloody flux is at New York and in this city. Just now there came in a post from *y^e* Senecas cuntry with a belt of wampum, who says that their cuntry was besett by *y^e* feers Indians caled Twickwitiks, and sent to *y^e* Mohackes cuntry for relefe. Wee shall give your Hon^r an exackt account of all our transacktions att our return, which wee hope will be in a shorte time. I have no further to ad, but my duty where it is dew, and so remain

Your Hon^{rs} very humble servant,

JNO^d LIVINGSTON.”—*Win-*

throp Papers, part V., p. 268.

“ALBANY, Octobr *y^e 5th 1704.*

SR,—I recd *y^{rs}* of the tenth of the last instant by my nephew, and had you informed me before *y^t* intelligence from me might have been serviceable to you, I should have missed no opportunity on *y^t* acct. According to *y^r* request I shall assist Capt Goold and *y^r* sonn in law wth the best directions I am master of, and you may depend upon it that upon all acco^{ts} there will be justice done to *y^{rs}* as well as the Boston Com^{rs}. I wish you all imaginable success against *y^r* enemy, and if in anything in these parts I can be serviceable to you, you'll wrong me if you do not at all times readily com^d, SR,

Y^r most hearty friend & humble Serv^t

P. SCHUYLER.”—*Ibid., p. 269.*

“ALBANY, *y^e 11th of Octobr 1704.*

HONORBLE SR,—Haveing opportunity by Serg^t Wakeman, who came up with us, thinke it our duty to give your Hon^r a further account of matters, and are very sorry that we cannot tell your Hon^r that we have had a sight of any more of *y^e* Five Nations; but from *y^e* first castle the first messenger hath been gon now 26 dayes, and yet no news from him. The Boston gentlemen with our selves thought best to send away a post to know with as much speed as possible *y^e* reason of *y^e* delaye, which we did yesterday erly in *y^e* morning from Sneckeday, whose returne we expect on Fryday next. The civill treatment we meet with from the gentlemen and people heer makes our aboade comfortable, tho chargeable; yet account our selves unhappye in that we can no sooner dispatch our busines than at present we have prospect of, yet hope all things will do well. It is judged that the reason of the delay is *y^e* enemies invadeing *y^e* Seneckes & Cayoges cuntry, according as in our last to your Hon^r by the way of Westfield. We hope that we shall soon be able to give your Hon^r a better account and shall not trouble your Hon^r further. Coll: Schuyler with *y^e* Maj^r J: Schuyler and *y^e* Baye gent^l give their service to your Hon^r and the gent^l of your Hon^{rs} Council. This from us in helth is all save humble service to your Hon^r & Council.

SR, we are your Hon^{rs} most obed^t and hum^{ble} servants,

NATHAN GOLD.

JNO^d LIVINGSTON.

Octobr *y^e 12th 1704.* May itt pleas your Hon^r this morning a bout five a clock in *y^e* morning our last post returnd, and brought us *y^e* news *y^t* *y^e* sachemes of *y^e* Five Nations will be here within two dayes. *Y^e* last of them hence will be here in two howers.”—*Ibid., p. 270.*

The Massachusetts commissioners returned to Boston on the third † of November, and

* See chapter 89, ante.

† “On Fryday night the 3d Currant returned from Albany, the Honourable Colonel Penn Townsend, and John Leveret Esqrs. Commissioners for a Treaty with the 5 Nations, with the other Gentlemen that accompanied them, all in good health, who have renewed the ancient Friendship with them.”—*Boston News-Letter, No. 29.*—The entry in the council record dated the fourth is, “the commissioners . . . being returned this day,” etc., but the News-Letter's report is more circumstantial, and is probably correct.

on the fourth they presented to the Council a "Narrative of their Treaty and Negotiation,"* which was read at the Board.

The following is the record of the action taken by the Governor and Council upon their final account:—

"Nov. 20, 1704. An Account of the charge of Penn Townsend and John Leverett Esqrs Commissioners to Albany in the late Negotiation with the five Nations, and for their attendants and servants, amounting to Eighty two pounds & two pence, including twenty five pounds six shillings taken up to make up their present Two hundred pounds.— In which Account the Province has credit for Ten pounds, so the balance is seventy two pounds and two pence, which sum is over and above the Fifty pounds advanced to them at their setting forth.

Advised and Consented, That a Warrant be issued to the Treasurer to pay unto the said Penn Townsend and John Leverett Esqrs the said Balance of seventy two pounds and two pence, as also the sum of Forty pounds to each granted them by the General Assembly for their Service."—*Executive Records of the Council*, vol. 4, p. 109.

In the province treasurer's account the above allowance of £152 0s. 2d. was duly charged as paid.†

Although the report of the commissioners from Massachusetts to Connecticut has not been discovered, the response of the Indians to their appeal is shown in the preamble to this chapter, by which it appears they were only deterred from "taking up the hatchet" by their failure to receive the consent of Cornbury, whose reluctance was owing, apparently, to his apprehension that such a treaty would interrupt or destroy the trade of which the existing neutrality between his government and the Indians secured to New York a monopoly.

The order which constitutes this chapter, and which originated in the House, passed through all its stages on the same day. There are some unimportant differences between the preamble to the order as recorded and as it exists in the archives. Before the order was passed, the words "allow & Encourage," in the third line, were substituted for "Improve his Interest with," as first written.

Upon receiving the letter which Dudley wrote to him in accordance with the request of the Legislature as expressed in this chapter, Cornbury replied, as mentioned in the footnote on page 100, *ante*, in a letter which has not been found, "That he would allow & encourage the Five Nations to take up Arms against the Common Enemy."‡ This letter Dudley communicated to the Council February 21, 1704-5; but by that time this concession of the governor of New York, by whatever inducement it was obtained, became for the time being of little consequence, since overtures were made soon after for the exchange of prisoners by the belligerents, which, notwithstanding some abortive hostile demonstrations § in the mean time, led to a cessation of hostilities pending the ensuing negotiations for a treaty of peace.

The record of the proceedings of the House in presenting their thanks to Dudley for his services in procuring Cornbury's consent to the alliance with the Iroquois is as follows:—

"Feb. 22, 1704-5. Mr Wolcott, Cpt. Warren & Cpt. Brattle of the Representatives attended his Excellency with the Letters from the Lord Cornbury & Governour Winthrop in Answer to Letters written to them referring to the Five Nations & the Affairs of the War, sent to that House yesterday for their perusal,

And gave the Thanks of the House to his Excellency for his Care & pains in that Matter, withal Desiring him further to press the Government of Connecticut for their Assistance in the War not being satisfied with his Answer."—*Council Records*, vol. VIII., p. 106.

The missing records of the doings of the Massachusetts commissioners and the result of their mission are in some degree supplied by the following extracts from the correspondence of Governor Winthrop:—

"MILFORD, Decemb^r 1st 1704.

HONORABLE. S^r.—I returne your Honor many thanks for y^e liberty of perusing y^e discourses and transactions y^t y^e gentlemen have had with y^e Five Nations of Indians; wth their seeming welcombs of them and y^r presents, wth some hopefull appearance of their freindlines to us and contrary to o^r adversaries in their own way, by making y^e enemies country y^e seat of y^e wars, w^{ch} if we may be p^rpared for it timely, and y^e God of heaven succeeding & blessing us in such an vndertaking, is a likly way & hopeful means to carry on y^e warr against o^r enemies to o^r advantage. . . . I have heerewith returned y^or papers of y^e treaties wth said Indians, . . .

R. TREAT. D. G."—*Win-*

throp Papers, part V., p. 272.

[Winthrop to Dudley.]

"NEW LONDON, Feb. [blank] 17⁰⁴.

S^r.— . . . I hoped before this tyme, by your intrest in my Lord Cornbury, some advantage would be made of the late treaty with the 5 Nations of Indians, who tell you their hatchets are ready when *Curler* (their owne expression) will give them order and instructions.¶ And if that matter were once resolved, it would not be difficult to make inticements that would excite them to send flying parties into the enemies quarters; and they would bring in scalpes & prisoners, as I know they used in the former warr, w^{ch} would

* Council Records, vol. VIII., p. 82. Neither this "narrative" nor the report of the Connecticut commissioners has been found, although careful search for both has been made in the archives of the respective governments.

† Mass. Archives, vol. 122, p. 229.

‡ Council Records, vol. VIII., p. 105.

§ See letter of Governor Winthrop to Governor Cranston, April 13, 1705.—*Winthrop Papers*, part V., p. 289.

¶ "*Curler*" is a corruption of "*Corlaer*," the official designation which the Five Nations gave to the Governor of New York. See Parkman's *Frontenac and New France under Louis XIV.*, p. 93, note.—*Eds.*

frighten & keepe them at home, and would be of speciall advantage to discover any marching parties that should have designe upon any of the Governments. . . .

J: WINTHROP."—*Ibid.*, p. 282.

The following extract from Penhallow gives the only printed account, by a contemporary, of this mission, and his reflections upon it indicate the popular feeling in regard to Cornbury's action:—

"The five nations of Indians which are called by the name of Oneidas, Onondagas, Cayugas, Senekas, and Macquas, [so spelled in the printed narrative, but written by Penhallow, Oneidas, Onondages, Cayonges, Senneches, and Macquans] all this while stood neuter, but being like to be influenced by the French missionaries, who came among them, Colonel Townsend and Mr. Leverett, from the Massachusetts, Capt. Gold and Capt. Levinston from Connecticut, were commissioned to give them a visit, and strengthen the alliance with them, which they did to so good effect, that they promised to take up the hatchet, whenever the Governor of New-York should desire it. But why so fair an opportunity was lost, when the interest of New-England lay bleeding, was matter of surprise and admiration to some, of censures and reflections to others. The only account we can give of it is the vast trade between the Dutch and Indians; for the sake of which, that government have always chosen to restrain their Indians from joining with us in our wars. In the midst of war there seems a secret league between them and the Governor of Canada, not to suffer the least breach to be made on one another by any of their Indians."—*Indian Wars*, p. 35.

Samuel Niles, who, though an accepted authority, seems to have consulted no other source of information than Penhallow, thus attempts to echo the opinion of the latter:—

"But though the interest of New-England had so many years before this, and long after, lay bleeding, yet this permit could not be obtained from the Governor; which proceeded, as was conjectured by some, from a secret intrigue between him and the Governor of Canada, lest it might obstruct the free trade of the Indians with some of the inhabitants of this western government; which has in time past been a great wound to the eastern parts of the country."—*Mass. Hist. Soc. Coll., third series, vol. VI., p. 260.*

Chap. 102. This chapter is from council records, vol. VIII., p. 100. It is preserved in archives, vol. 71, p. 117.

The order which constitutes this chapter so far modified the provisions of chapter 18, *ante*, as to require, among other things, the billeting of all soldiers who had been furnished more than six consecutive meals by the person seeking compensation to be charged at a rate per week instead of by the single meal.

Chap. 103. This chapter is from archives, vol. 62, p. 490. It is recorded in council records, vol. VIII., p. 101.

By chapter 62 of the resolves of the year 1701-2, and the order of the Council thereupon, the powder and powder-money collected at the impost office in Salem were to be applied to the repair of the fort there, by the field-officers. See the note to said chapter, vol. VII., p. 699.

Chap. 104. This chapter is from archives, vol. 71, p. 108. It is recorded in council records, vol. VIII., p. 101.

The resolve which constitutes this chapter was passed upon the following petition:—

"the proneins of the
masachusetts bay To his exalancy Joseph dutly esquir captain genarall comander
in * and ouer hur maiesties prouines of the masiachusens bay in new England and to
the honorable counsil and raprasantitifes in genarall court asambled at boston this Instant
desember 1704:

The humble patition of the Inhabitants of the town of groton in the county of midlsax
in the prouins afore sd humbly sheweth

1 That whereas by the all dessposing hand of god who orders all things in infinit
wisdom it is our portion to lie In such a part of the land which by reson of the enemy
Is becom nary dangras as by wofull exsperiantes we haue felt both formarly and of late
to our grut damidg & discordiment and espashaly this last yere hauing lost so many
parsons som killed som captanated and som ramoned and also much corn & cattell and
horses & hay wharby wee ar gratly Impouerished and brought nary low & in a nary pore
capasity to subsist any longer As the barers herof can inform your honors—

2 And more then all this our paster mr hobard † is & hath been for aboue a yere unncapable
of desspansing the ordinances of god amongst vs & we haue aduised with the Rarrant
Elders of our nayboring chnrches and thay aduise to hyare another minister and to saport
mr hobord and to make our adras to your honors we haue but litel laft to pay our deus
with being so pore and few In numbr athar to town or cuntrey & we being a frantere town
& lyable to dangor there being no safty in going out nor coming in but for a long time we
haue got our brag with the parel of our lines & also broght nery low by so grut a charg
of bilding garisons & fortifications by ordur of athorety & thar is saural of our Inhabitants
remoned out of town & others ar prouiding to remone axcept somthing be don for
our Incoridgment for we are so few & so por that we canot pay two ministers nathar are
we willing to lue without any—we spand so much time in waching and warding that we
can doe but litel els & truly we haue lined allmost 2 yers more like soulders then other

* Sic.

† Rev. Gershom Hobart, son of Rev. Peter of Hingham. He died December 19, 1707.

"at a town meeting legally warned the town deed thus leften lawranc & thomas tarbell to agree
with summ menistr to cum & preach with us if any can be found 22 January 1704 5

THOMAS TARBELL Clark."—*The*

Early Records of Groton, p. 126, by Samuel A. Green, M.D.

wise & accept your honars can find out som bater way for our safty and support we cannot uphold as a town ather by remitting our tax or tow allow pay for building the sauarall forts allowed and ordred by authority or alls to allow the one half of our own Inhabitants to be under pay or to grant liberty for our remufe In to our naiburing towns to tak cor for our safis all which if your honors shall se meet to grant you will hereby gratly incorridg your humble peteceners to conflect with the many trubles we ar ensadant unto

whar fore your humble pationars humbly prays your axcalancy & this honored court to tak this mater into your seares consedration and grant releef accordingly and your petitionars shall as in duty bound for eur pray

by ordr of the town of groton

JONAS PRESCOTT
JAMES NUTTING
JOSEPH LAKEN
SAMUEL PARKER." — *Mass.*

Archives, vol. 71, p. 107.

This petition was read in the House January 2, 1704-5, and probably referred to the committee on claims. On the next day the resolve aforesaid was passed by the representatives and sent to the Council for concurrence. On the fourth it was concurred in, and consented to by the Governor.

The orders in Council* for payment of the allowances granted by this chapter were passed January 18, 1704-5, and the province treasurer's account† shows that they were paid.

For incidents of the invasions of this town by the enemy, see notes to resolves, 1694-5, chapter 17, 1699-1700, chapter 26, and to chapter 48, *ante*. The first two of these chapters relate to but one invasion, which was made July 27, 1694. The date (1693) given in Josiah Parker's petition, as printed in the note to chapter 26 of the resolves of 1699-1700, is erroneous.

Chap. 105. This chapter is from council records, vol. VIII., p. 102. It has not been found in the archives.

The following certificates, which are copied from the originals in the Leffingwell collection of manuscripts, were filed in attestation of the claim of the widow of the Rev. John Wade, minister of Berwick, whose attentions to sick and wounded soldiers in the eastern expeditions are referred to in the preamble to the resolve which constitutes this chapter:—

"To his Excellency Joseph Dudley Esq; Cap^t Gen^l & Govenor in Chief of y^e Massachusetts &c

This may Certifie y^t m^r John Wade administred to my self & three of my men James Gleason & Nathanael Collier & Serjeant when we were Und^r divers diseases, I pray y^t his Bill may be Considered & Allowed—

Y^{or} Excellencies most humble Serv^t.

Salmon falls Oct. 26. 1703

BENJA WILLARD cap^t

To His Excellency Joseph Dudley Esqr Cap^t Gen^l & Gov^r in chief of y^e Massachusetts &c

This may Certifie y^t m^r John Wade administred to John Spalden one of my men, when Sick, I pray his Bill may be Considered & allowed — — —

Y^{or} Excellencies most humble serv^t.

Salmon Falls Oct. 26. 1703

WM TYNG cap^t

To His Excellencie Joseph Dudley Esqr Cap^t Gen^l & Gov^r in Chief of y^e Massachusetts &c.

This may Certifie y^t m^r John Wade administred to Samuel Griffin one of my men having his Shoulder Damnified in tunc of Sconthing, I pray his Bill may be Considered & allowed

Y^{or} Excellencies most humble Servant

THO HARVEY

to his Excellencie Joseph dudley, Cap^t genrl and gour in Chief of y^e massachusetts

this may cartifi y^t m^r John wade administred to my selne and thre of my men I pray his bill may be considered and allowed

Y^{or} Exelcies humbl sar^t

JOSEPH BROWN." — *Sale-*

catalogue number 6202.

The order in Council* for payment of the allowance granted by this chapter was passed January 18, 1704-5, and the province treasurer's account† shows that it was duly paid.

See resolves, 1706-7, chapter 118, and note.

Chap. 106. This chapter is from archives, vol. 71, p. 118. It is recorded in council records, vol. VIII., p. 102.

From the Governor's allusion to an apprehended invasion, in his speech to the Assembly at the beginning of the fourth session (note to chapter 98, *ante*), it would seem that by that time the rumors of an intended hostile demonstration against the frontiers were generally credited — and that the confirmatory evidence had not been communicated solely to the executive as private information. Whether the cause for apprehension was then generally regarded as serious or not, the following item from the News-Letter, less than three weeks later, tended to substantiate the rumor:—

"*New York, Jan. 1.* . . . The Post from *Albany* brings Advice, That the *French* were fitting out a great Party of Indians, &c. to fall upon some of the *English* Governments." — *No. 39.*

* Executive Records of the Council, vol. 4, p. 141.

† *Mass. Archives*, vol. 122, p. 233.

‡ He was son of Thomas Wade of Ipswich, where he was born February 15, 1676. — *Felt.*

This undoubtedly influenced the Legislature to further consider the project of securing the active coöperation of Connecticut in resisting the expected assaults of the enemy.

In the note to chapter 81, *ante*, the letter of Governor Winthrop in response to the message of the Massachusetts commissioners is given in full, and the statement is there made that Dudley did not reply until after the passage of the order which constitutes the present chapter. The reason for this delay will be obvious upon comparing the purport of this chapter, and the offers made by Winthrop in his letter, with the arrogant and uncivil reply which Dudley made for Massachusetts, as follows:—

“BOSTON, January 17th 17th 4.

Sr, — I perceive by your letters, as well as my own messengers, that you and the gentlemen of your Council are very well satisfied with what they have ordered for the support of West Hampshire, & by the votes & address of the General Assembly of this Province that they are as unanimous in their opinion that the 200 men sent from Connecticut Colony to the service are far short of their proportion. That they justly expect that Connecticut Colony subsist their own troops as well as find them ammunition; & truly Sr I am of the same opinion, (since I have six hundred men in garison in the frontiers & three hundred and fifty now preparing for a march to their head quarters,) that it is not half what your Colony ought to do. Upon this head I had your very long letter, too much to answer this cold weather; only Sr I must acquaint you that I have and shall always do your Province justice in informing her Majesty what you do, as well as what in my opinion you ought to do; & when I have account from your selfe or your officers what number of men you have in this Government, I shall direct their service, if they see meet to obey it.

I am Sr your very humble servant,

J. DUDLEY.” — *Win-*

throp Papers, part V., p. 279.

To this letter Winthrop sent the following temperate yet firm answer: * —

“NEW LONDON, Feb. [blank] 17th 4.

Sr, — My indisposition the last three weekes hindered my returne to your letter of Janry 17th, wherein I perceive your expectation from us is much more than wee are able to accomodate, and that your Gen^l Assembly have voted a quota for us w^{ch} I think they very little understand, but as being rich themselves they think all the world see too. I see not how wee shall be able to support soe many troopes much longer in your service without starveing our people. If your Excellency concludes the enemy eastward are yet able to infest those parts, and that there is danger of a party from Canada to disturbe Hampshire, it will be of necessity to apply to the other Governments for their assistance,

Your Excellencies humble serv^t,

J: WINTHROP.” —

Ibid., p. 281.

This letter Dudley communicated to the Council on the twenty-first, together with a letter from Cornbury, as mentioned in the note to chapter 101, *ante*. Both letters were read at the Board and sent to the representatives; and this, apparently, was the last action taken upon either. This seems to have been the last correspondence respecting the relative contribution of Connecticut to Massachusetts of men, munitions of war, and subsistence of forces, until the subject was revived the next spring, upon the receipt of further rumors of an intended invasion from Canada.

The response of Rhode Island, as given in the note to chapter 81, p. 437, *ante*, seems to have been disregarded.

Chap. 107. This chapter is from council records, vol. VIII., p. 102. It is preserved in archives, vol. 71, p. 84.

The following is the account referred to in the preamble of the resolve which constitutes this chapter:—

“1703 Province of the Massathusetts Bay Dr To Thomas Harvy Viz

		li	sh	d
Feb ^y 6 th u	To: 29 pr Snow shooes p Sam ^l Hutchins at 7 ^s p wherof	10	3	...
	20 pr were sent to piscataqua p His Excell ^{ys} order	..	2	8
	To .. 8 pr ditto: p James Holt at 6 ^s p	..	1	16
	6 pr. ditto p Thomas Wardwell at 6 ^s p	..	..	6
	1 pr. ditto p John Barker at 6/	..	..	6
	1 pr ditto p Sammel Marble at 6/	..	..	6
	1 pr ditto p Joshua Swan at 6/	..	..	6
	1 pr ditto p Timothy Holt at 6/	..	..	6
	1 pr ditto p John Sinonds at 6/	..	..	6
	1 pr ditto p William Whittaker at 6/	..	..	6
	1 pr ditto p John Hartshorne at 6/	..	..	6
	paid Josiah Gage for mending 13 pr Snow Shoes	..	1	10
	paid Lien ^t John White for 2 sides curried leather for strings	..	..	..
	for s ^d shoes	..	19	..
		£	18	18
	Paid Doctor Broadstreet for W ^m Huntington ^s cure	£	1	10
	To John Peasely for a horse lost in the pigwackit expedition	£	1	..
		£	21	8

— *Mass. Archives, vol. 71, p. 84.*

* Other portions of this letter are printed in the note to chapter 101, *ante*.

This account was read in the House November 3, 1704, and the following resolve was passed thereon and sent to the Council for concurrence:—

“Resolved That the sum of Twenty one Pounds, and eight shillings be Paid out of the publick Treasury unto Captain Thom^s Harvey, to Discharge the above acct he paying the severall Persons concerned therein respectively their dne.”—*Ibid.*

The matter here rested until the fourth session, when the House again took it up by passing the following resolve:—

“In the House of Representatives Jan^y 5: 1704

Resolved That the Resolve of this House abovescriben be Revived, & Sent up for Concurrence, with this addition that the sd sum be paid to the sd Harvey upon his shewing Receipt from Colo^l Saltonstall, that he has delivered the sd snow-shoes to him, or if any are wanting, an acct to the satisfaction of the Commiss^y Gener^l how they have been disposed of.

JA: CONVERS Speaker.”—*Ibid.*

On the same day the last resolve was read in Council, concurred in, and consented to by the Governor.

The order in Council* for the payment of this allowance was passed January 18, 1704-5.

For an account of the expedition to Pigwacket see the note to resolves, 1703-4, chapter 66.

Chap. 108. This chapter is from archives, vol. 62, p. 491. It is recorded in council records, vol. VIII., p. 103.

Dudley was vigilant in observing the position, the condition and the movements of the enemy by sea and land. On the fourth of September, 1704,† the Council approved of his proposal “to send a Shalop to Port Royal, to gain intelligence what ships are arrived with supplies and what posture the French are in there.” The expense of this scouting expedition probably came under the rule of disbursements for military purposes, which were passed upon by the committee of war and paid by debentures. This may account for the absence of any other mention of the affair in the public records. The voyage authorized by the present chapter, however, appears to be a later expedition, for the News-Letter’s mention of which see note to chapter 98, *ante*, p. 446, foot-note.

Further information relating to this voyage is given in the following entries in the executive records of the council and in the accounts of the province treasurer:—

“June 22, 1705. A Muster Roll of the Company belonging to the Sloop Centurion Captⁿ Jacob Fowle Commander, employed as a Cruiser on Her Maj^{ty}’s service from the 23^d of February to the 23^d of April 1705 and for Vessel hire, amounting in the whole to the sum of eighty two pounds seventeen shillings and five pence, whereof seven pounds being subducted for Commissary, rests due to ballance seventy five pounds, seventeen shillings and five pence; having been examined by the Commissary General, was presented—&

Advised and Consented, That a Warrant be made out thereupon to the Treasurer to pay the above sum of Seventy five pounds, seventeen shillings and five pence to the said Captain Fowle, on behalfe of himselfe, Company & Owners accordingly.”—*Vol. 4, p. 183.*

“Paid Capt Jacob Fowle Comand^r of the Sloop Centurion Employed as a Cruiser on her Maj^{ties} Service from the 23 of February to the 23^d of April 1705 Wages for himself & Comp^a & Vessell hire . . . 75 ¹¹ 17 ⁵.”

—*Mass. Archives, vol. 122, p. 251.*

Penhallow relates the following additional incidents of the expedition:—

“Capt. Fowle was also dispatched in a sloop of war, who on the northward of Cape Sables took a small vessel formerly belonging to the English, which had cattle and sheep on board her. Soon after he took five prisoners at Port Rosna,‡ and three at L’Have, burnt a few houses, and killed some cattle; but the inhabitants were so miserably poor, and their circumstances so desperate, that they rather chose to be prisoners among the English, than at liberty among the French.”—*Indian Wars, p. 38.*

Chap. 109. This chapter is from council records, vol. VIII., p. 103, and archives, vol. 17, p. 141.

Hugh Woodbury was probably the son of Hugh of Salem, on Beverly (or Ryall) side. His children who survived him, or left surviving descendants, were Samuel, Elizabeth, the wife of Joseph Pratt, Mary, the wife of Edward Gross, and John. Mary, the widow of Hugh, was appointed administratrix of his estate, and the following is a copy § of the inventory she returned:—

“An Inventory of the estate of m^r Hugh woodberry late of Bristol Deceased taken by us the subscribers May^y 11th 1702

His wearing Apparell of all sorts	03 = 15 = 00
His Books	00 = 07 = 00
one feather bed with furniture with bed steed	05 = 10 = 00
Table Linnen and one pair of Sheets	01 = 00 = 00
A smale box with Drawers one Cubbard Joynt stoole & Chest	01 = 15 = 00
two tables and a smale box 7 Chaires with some Cushens	01 = 12 = 00
two Chest of which one a Red Cedar Chest	00 = 16 = 00
two pewter Basons 8 platters & other smale plates Spoons	03 = 04 = 00
two silver spoones with some Earthen ware at	
One Iron Pott. Brass kettle Brass pans 2 flying pannes	02 = 00 = 00
two hakes one Gridiron tire shonell spit & stilliards	

* Executive Records of the Council, vol. 4, p. 142.

† *Ibid.*, p. 63.

‡ Note by the editor of Penhallow: “Probably Port-Roseway.”

§ Attested by John Cary, register of probate.

two Axes one hoe halve bushell measure two sines	00 = 09 = 00
Pailles & Barrells & other wooden Lumber & one Cann	00 = 18 = 00
two peices of snale pewter 2 ^d Cart wheels & Cart Saddle 8 ^s	00 = 10 = 00
woollen wheel & woollen yarn yarn * & a pair of Bellows	00 = 07 = 00
A hair Cloth 15 ^s fine flt heads old and Iron Trevet 4 ^s : 6 ^d	00 = 19 = 06
two snale swine 10 ^s one Cow a year old heifer and a yealing 4 ^u = 5 ^s :	04 = 15 = 00
fifteen sheep with fiveteen young Lambes	05 = 04 = 00
the Dwelling house out houseing with one Comonage & two Acres of land on which the houseing stand at	70 = 00 = 00
Due by bond 12 ^u	12
	115 = 01 = 06

DAVID CARY }
JAMES ADAMS } prissers

Memorandum a peice of Meadow at Cipicon : valued by the Deceased in his life time to be worth : 4^u = 00^s = 00^d

Memorandum that on the Thirteenth Day of June 1702 then in Bristol Mrs Mary woodbery widow & Relict of mr Hugh woodbery late of Bristol Deceased Appeared & made Oath (before John Saffin Esqr Judge of Probate of wills &c within the County of Bristol) that the above written Inventory by her exhibited is true & Jvst to the best of her Knowledge & when she Knows more she will Reveal it & bring it to the Reg^t that it may herewith be Recorded

JOHN CARY Reg^t

JOHN SAFFIN.

Entered. June 17th 1702 by

JOHN CARY Reg^t. — *Mass.*

Archives, vol. 17, p. 144.

In final settlement of the estate, the probate court passed a decree, of which the following is a copy, assigning the real estate to the son-in-law, Edward Gross, in fee, upon his giving bond to pay the representatives of the deceased their respective portions of the estate at its appraised value,† the administratrix having already, out of the personal assets, defrayed the funeral expenses, besides paying sundry small debts of the deceased : —

“ John Saffin Esqr Duely Appointed & Commissionated to be Judge of the Probate of wills and Granting of Lettrs of Administration within the County of Bristol To all to whom these presents shall come Greeting Know ye that whereas mr Hugh woodbery of Bristol afforesd Marrin^d Dyed seized & Possessed of a Certaine snale Estate Consisting of a Dwelling horse two acres of land with one Comonage within the County of Bristol aforsd. of and Concerning which the sd Hugh woodbery made no Legall Disposition in his life time (Together with some moveables or personall Estate being now in y^e hands & Possession of m^{rs} Mary woodbery Administr^{trix} to said Estate) which being snale as above said Cannot be Divided without spoiling the whole And therefore as the Law Directs the said Estate is Tendered to Edward Gross of Bristol aforsd Marrin^d Son in law to the said Hugh woodbery Dec^d Consisting in a Dwelling horse Barn, two acres of land & one Comonage vpon this Condition, that the sd Edward Gross Give Sufficient security for the paymt of the severall parts shares & proportion of the said Estate To the severall Children & Grand Children of the sd Deceased The which Tender the said Edward Gross hath accepted, And the same being duely Apprized by good & svfficient freeholders upon Oath, namely Nath^l Paine Esqr Cap^t Samuel Gallop Lein^t Sam^l Little, mr John Byrge and m^r Peter Reynolds & valued to be worth seventy five pounds & no more : I have therefore (with the free Consent & approbation of the said Mary Woodbery Administratrix) By vertue of the Power and Commission and according to the Direction of the law in that Case made and provided, Made over ordered & Appointed unto the sd Edward Gross the above mentioned two acre lott with the houseing buildings Barns & fencing thereon with one Commonage all belonging to the Real & proper Estate of y^e s^d Hugh woodbery Dec^d without any mannr of Condition Reservation. Reversion or Limitation but what is above Hinted & shall further and perticulerly be mentioned in a Certain bond & Condition thereof to be given by the s^d Edward Gross bearing Equall date with these presents. And I doe by these presents make over order & Appoint the whole of said Reall Estate above mentioned unto the s^d Edward Gross To him his heires Executors Administrators and Assignes for Ever To have & to hold the sd Horseing land & Commonage with all and singler the profits priuiledges & appurtenances unto the same belonging or in any wise appertaining to him said Edward Gross his heires and Assignes to his and their use benefit & behoofe for Ever In Testimony whereof I have hereunto set my hand and the seale of said office Dated in Bristol this fifteenth day of June in the first year of her Majesties Reigrn *Annoq; Domini* 1702

JOHN CARY Reg^t

JOHN SAFFIN

Entered June 17th 1702 by

JOHN CARY Registr. — *Ibid., p. 145.*

On the same day bond was accordingly given by Gross in the penalty of one hundred and fifty pounds, with Nathaniel Paine and Tristram Bowerman as snreties, after which, it would seem, the widow of the eldest son of the deceased, who had become the wife

* *Sic.*

† The items appear in the following certificate : —

“ A bond was giuen by the within Named Edward Gross for the paymt of moneyes
to Elizabeth Pratt. Eldest Daught liueing = 12 = 16 = 0
to Mary Gross youngest Daughter 12 = 16 = 00
Jonathan Woodbery Samuel woodbery & Sarah Woodbery Children of m^r
Sam^l Woodbery Eldest son of y^e Deceased Hugh woodbery 25 = 12 = 00
to Nath^l woodbery son of John woodbery son of s^d Hugh Woodbery 12 = 16 = ”

— *Mass. Archives, vol. 17, p. 146.*

of William Fulton* of Bristol, presented a claim of £18 18s. 6d., as administratrix of her former husband's estate, which it was supposed had not only been paid but that the son was in debt to his father. This account was stated as follows:—

"In Brystoll Novembr ye 2^d 1690—

		mr Hugh woodbury		Dr—	
Novem. 15. 77.		paid for 2 thimbles more then y ^e plate prodused	2	00	
		paid for A Sucking Bottle	2	6	
		paid m ^r James taylor more then y ^e money Sentt	12	0	
		paid for a payr of Bellows	3	6	
		for a Barrell of pork Sent by J ^{no} woodbury	2	8	0
Dec. 12. 78		to A Bill paid by J ^{no} fayerweather to J ^{no} Sanders	12	4	0
		to A Bill pd by Ditto fayerw to W ^m Brown of Salem	11	0	0
Sep. 10. 82		to 24. yds Blew Lennen	1	0	0
		to Cash Lent you At Brystoll	5	0	0
		to A Barrell molasos Sent from Nuport	1	10	0
Aug 4. 83		to Cash Lent. you	1	00	00
Sep. — 85		to 7. yds ozenbrigs Lennen	7	0	
		to paid Dearman Smyth. p ^r order	9	6	
		to paid Anthony Low frayt from Salem	1	3	0
		to paid Nath Toegood	4	6	
	87	to paid Rich ^d Taft. in molasos	3	9	
		to 4 Barrells molasos at. 28 Shill p Barrell	5	12	0
	89	to. paid Joseph peck in nailes	10	0	
	90	to Cash Lent you	1	10	0
			45	1	9
		pr. Cont. Is	Cr—		
oct. 1. 79		By A parcel English goods Reed of J ^{no} Stone .15 8 3			
		By J ^{no} myles Dyett 2 months and half at 4.6			
		p wek	2	5	0
		By Ditto 3 months in y ^e year 84	2	14	0
		By A Horse Runing in y ^r tenn Acre Lott	5	0	
	84	By y ^e Indien maides Dyett 2. months	1	16	0
	85	By A young mare	2	5	0
		By Rent of your Chamber	1	10	0
			26	3	3
		Ballance. due	18	18	6
			45	1	9."

— *Ibid.*, p. 143.

The settlement of the court was therefore unsatisfactory both to the widow and children of the deceased, and, supposing also that it was irregular and illegal, the widow applied to the General Court, in the following petition, to have the decree set aside, and for an order or resolve for the sale of the real estate:—

"To his Excellency Joseph Dudley Esq; Govern^r in chief together with the Honour^{ble} Councel & Representatives Assembled In Generall Court The Humble Petition of Mary Woodbury Relict & Administratrix of Hugh Woodbury Late of Bristol in the County of Bristol Deceased Humbly Sheweth:

That your Petitioners Late Husband about Two years & a halfe since Died suddenly Intestate & leaving no son to Administer: your Petitioner was put vpon it to Take vpon her to Administer vpon that small Estate which was left by your petitioners late husband (Which according to apprizement amounted to but one hundred & fifteen pounds wher of forty & five pounds were Moveables & the other seventy pounds in a house & two acres of Land situate lying & being in Bristol aforesaid so that your petitioner is now liable to pay all her late husbands Just Debts which already apper to amount to forty pounds w^{ch} your Petitioner hath endeavored to pay as far as she hath been able but the greatest part of the Moveables were such that they could not be improved to Answer his Just Debts so that your Petitioner hath no way to make Payment of Debts: nor her self to subsist in her old age (which is now seventy & three years) your poore Petitioner Therefore humbly Prayes that she may be Impovered by This Honor^d Court to make sale of the abovesaid House & two acres of Land which were left by her Late husband to satisfie his Just Debts And may also have some thing to releive her owne Present necessities which are very vrgent vpon her. And your Petitioner shall ever Pray as In dutie bound &c

MARY WOODBURY
M. W." +— *Ibid.*, p. 141.

This petition was read in Council January 6, 1701-5, when the vote which constitutes this chapter was passed and sent to the House for concurrence. On the same day it was concurred in, and consented to by the Governor. See note to chapter 113, *post*.

On the nineteenth of February the referees reported to the Governor and Council, who seem to have taken cognizance of the matter in their judicial capacity as the supreme court of probate and not as a branch of the Legislature. The report was as follows:—

"May it Please yor Excellency & Honours
In Obedience to your Commands (which Came not to our hands until the 17th Curr^y) we

* This name is written "Fulton" in the record of the deeds, hereafter mentioned, to Mary Woodbury and Nathaniel Paine, and is repeated in that form in the signatures, attestations and certificates of acknowledgment.

† These letters appear to be her mark.

have this day endeavored to enforme our Selves with y^e Circumstances of M^{rs} Mary Woodbury, & of the Estate left by her husband Mr Hugh Woodbury who Dyed intestate as is set forth in her Petition, the Proceedings of the Judge of Probate thereupon, yor Excellency, and Honours will understand by the enclosed Papers, which we have taken from the Register, the Widow has parted with as much of the moveables as she Can spare, out of which she hath paid the funerall Charges and Severall other Debts, & there Remaines due from the Estate To Nathl Paine Esq^r 12.19/ and to y^e estate of William Throop deceased 2.16/ and a few other small Debts not above forty shillings, there is now demanded by M^{rs} Mary Felton * who was the wife of M^r Sannell Woodbury deceased, who was the Eldest son of m^r Hugh Woodbury a Debt of 18. 18. 6^d as p^d the enclosed Accot Left with her by her Husband the last Time he went to sea, to which the Widdow, and Children of Hugh Woodbury, do say that not Long before his Death upon a Discourse of his being in his sons Debt he said he had paid him, & that if his Daughter in Law would Reckon with him she would fall in his debt M^r Edward Gross who is now at sea hath Complained verry much of his being perswaded beyonnd his understanding to enter into bonds, at wch his wife and mother in Law seeme much Dissatisfied supposing the proceedings to have been Irregular & Humbly Pray he may be discharged by your Excellency & Honours; The Widdow Mary Woodbury is very Antient and Crasye, and we think it Necessary that she should have a Comfortable Subsistance out of the Estate (which grows much out of Repair) about which we apprehend there hath bin a Neglect, all which is Humbly Submitted to yor Excellency, and Honours, By

Yor Most Obedient Servants

Bristol Febyry 19th 1704

NATHAL BYFIELD
EBENEZER BRENTON." — *Ibid.*,

p. 147

On the twenty-seventh the Governor and Council adopted the following resolution and decree:—

"Upon reading the Report of Nathaniel Byfield & Ebenezer Brenton Esq^{rs} to whom the Petition of Mary Woodberry Widow & Admin^r of the Estate of Hugh Woodberry late of Bristol within the County of Bristol deced. was referred. On consideration also of the order made by the Judge of Probate within that County for settlement of the Estate of the s^d Hugh Woodberry, the real Estate being thereby wholly ordered and assigned to a Son in Law; and the Male heires of the Sons of the s^d deced. pass'd over, nor no Dower assigned or saved to the Widow as the Law provides.

Resolved and Decreed. That the said Order or Act of Settlement made by the s^d Judge of probate be and hereby is reversed and made void, as not being agreeable to Law; unless any of the party's interested in the Estate offer any just reasons to the contrary to be filed in the Secretary's Office, at or before the last day of May next ensuing; and the Widow Admin^r is to cause them to be notified of this Decree.

J: DUDLEY." — *Executive Records of the Council, vol. 4, p. 149.*

The widow again applied to the Legislature, in the first session of the next year, as follows:—

"To his Excellency Joseph Dudley Esq^r: Cap^t: Generall of her Majest^{ys} Province &c: Together with the Honor^{al} Council & Representatives now Assembled in Court The Humble Petition of Mary Woodbury the Widdow and administratrix of Hugh Woodbury Late of Bristol in the County of Bristol Deceased Humbly Sheweth

That Your Poore Petitioner Did some time in Decemb^r last spread her Distressed Condition before Y^{or} Honor^s and humbly Petition that she might be relieved: Vpon which the honor^{al} Council on the 27th of Febr^y 1704: Vpon the report of Nathaniel Byfield and Ebenezer Brenton Esq^{rs} Did Resolve and Decree That the settlement of the Estate of my Late husband made by the Judge of Probate be and is Reversed and made Voyd: But notwithstanding the reversion of that settlement made by the Judg your Petitioner remains in the same Distress as before being still altogether uncapable of discharging any of her Late husbands Debts or procureing any thing for her owne present or future releif or subsistence (having nothing left her to Live vpon but the house & Land nor any son to take Care of her in this her derippid old age) Whereby your poore petitioner is reduced to a very Low condition which Necessitates your Petitioner to make an other Application to your Honor^s that so she may be Impowered to make sale of the House & small piece of Land adjoining to it for the Ends above Expressed: so shall your petitioner Ever pray for your Honor^s as in Dutie bound &c:

Bristol May 30th 1705

MARY WOODBURY." — *Mass.*

Archives, vol. 17, p. 140.

This petition was read a first and second time June 8, 1705, but no further action upon it has been discovered, owing, probably, to the death of the petitioner.

On the twenty-first of October, 1706, Joseph Pratt, saddler, and Elizabeth, his wife, of Bristol; Edward Gross, mariner, and Mary, his wife, of Newport, Rhode Island; Jonathan Woodbury of Bristol, son of Captain Samuel and grandson of Hugh, and William Fulton of Bristol, as guardian of Samuel and Sarah, minor children of said Captain Samuel; together with Mary Woodbury, widow of John Woodbury son of said Hugh, and guardian of Nathaniel Woodbury son of said John, after stating that Hugh Woodbury and his widow Mary were both deceased, joined in conveying to said Mary, widow of John, all their title and interest in and to "one acre and halfe of land Dweling house barne & Commonage above mentioned being of the Real estate of the said m^r Hugh woodberry Deceased, settinate in Bristol afores^d the s^d one acre and halfe of land being thus bounded as followeth viz^t towards the west upon Hop street, northerly upon one of the cross streets leading from Thames street to high street being the northernmost street save one & bounded toward the eastward and southward by y^e lands of Nathl Paine Esq^r. Together with all

* *Sic*: Fulton?

& singular the houseings barnes buildings edifyces fencings Orchards Gardens fruit trees wells waters Rents profits priviledges & Appurtenances whatsoever belonging to the s^d land," etc.*

On the twenty-fourth of October, 1706, the same grantors joined in a similar instrument in conveying to Nathaniel Paine of Bristol another parcel of land, described as follows; viz., "One full halfe acre of land in Bristol being part of his homestead or two acre lott of land whereon his house standeth . . . (to be taken out of the said two acres) in the form of a square that is to say to lye one part thereof one the south side & the other part or half at the east end of sd two acre lott, which square of land is thus bounded viz It fronts or bounds on Hope street two Rodd westerly, south or southerly it bounds Twenty Rodd on lands now in the Possession of the said Nath^l Paine and on the east it bounds on the lands of the s^d Nath^l Paine sixteen Rodds & fronts northward upon one of the cross streets, the northernmost saue one two Rodds and Twenty foot and the inward part of said square of land by parrallel lines from each street bounds northerly and westerly upon the Remainder of ye said two acre lott."†

Chap. 110. This chapter is from council records, vol. VIII., p. 103. It is preserved in archives, vol. 101, p. 282.

The following is the account, as it was rendered, which led to the passage of the order that constitutes this chapter in which are combined the memorandum inintened on the account (apparently by the committee on claims), and the order which follows, also reported by that committee:—

"Accot of Ferrages &c^s viz in the County of W Hampshir

Thomas Preston's Bill of ferrage viz ^t amounting to as v ^d Accot ^t to £40 ..	
5 .. The halfe pay. Is	£20 .. 2 .. .6
John Kellogg's Bill of De £22 .. 13 .. 11, ye ½ is . . . . .	.. 11 .. .6 .. 11
Rich ^d Billing & Sam ^l Feild Carried into Samuel Partridge Esq ^r one Ind ⁿ	
Scalp Killed by them in Deerfield fight & gave Oath to the truth of it .	40
Nath ^l Dwights Bill of Expences to Maj ^r Whiteing the Sum of £8 in money	8
An Accot ^t of Sundries Lost at Deerfield fight viz ^t	
Jno Bridgman's bill of what lost ¶	£6 .. .16 - 4
Joseph Ingersoll's bill of Ditto . . . . .	.. 9 .. 10 .. -
Jno Burt's bill . . . . .	.. 1 .. - .. -
Joseph Alexx nd er's bill . . . . .	.. 4 .. 14 .. -
Mathew Clesson's bill . . . . .	.. 4 .. 14 .. -
Thomas Baker's Bill . . . . .	.. 1 .. 13 .. -
Serj ^t Boltwood & his son Rob ^t s Bill . . . . .	.. 1 .. 13 .. -
Jos ^h Wright's bill . . . . .	.. 7 .. 5 .. -
Rob ^t Boltwood's Bill . . . . .	.. 2
	.. 2 .. 10 .. -
Jno Miller's Bill of ferrage £6 .13 .. 5, - the halfe is . . . . .	.. 34 .. .8 .. .4
	.. 3 .. .6 .. .8
	£117 .. .4 .. .5

Mem^o

To Allow ½ ferredg

To all souldiers that Exseed 2d^s service to be p^d

To allow 20^s p Gun & 40^s p horse for all lost in the service

To allow noething for post to those less then 5 mile

To allow Maj^r Whitings charg at Dewits,

nothing to be allow'd for the last acc^t of Deerfield Losses.

In the House of Representatives Janry 6: 1704.

Ordered that the Directions abovewritten be observed in Paying the Acc^t of Dragoons &c^s in the County of Hampshire

Sent up for Concurrence

JAMES CONVERSE Speaker, —

Read and concurr'd.

In Council, 6^o January, 1704.

ISA^c ADDINGTON Secry." — *Mass.*

Archives, vol. 101, p. 281.

The order in Council for a warrant to the province treasurer for paying the above allowances is as follows:—

"Jan. 8, 1704-5. A Muster Roll of Dragoons and Foot Souldiers employed in Her Maj^{ty}'s service within the County of West Hampshire in partys sent out on several exigencies, under diverse Officers, and for Scooting from the 1st of March 1703/4 to the 20th of October following containing an Account of Wages for their service; as also an Account of Ferrages, and of Major Whitings Expences; having been Examined by the Commissary General, & the Allowances made agreeable to what set by the General Assembly, pursuant to the Report of their Committees, amounting in the whole to two hundred sixty seven pounds, sixteen shillings and seven pence was presented—And

Advised and Consented, That a Warrant be made out thereupon to the Treasurer to pay the above sum of Two hundred sixty seven pounds, sixteen shill^s and seven pence, to Lieut Col: Partridge, on behalfe of the Officers, Souldiers & others therein named accordingly." — *Executive Records of the Council, vol. 4, p. 135.*

The province treasurer's accounts show that the amounts allowed were duly paid || according to the foregoing warrant.

See note to chapter 113, *post*.

* Bristol Registry of Deeds, Northern District: Land Records, book 5, pp. 299, 300.

† *Ibid.*, pp. 97, 98.

‡ See chapter 6, *ante*, and note.

§ Nine shillings had been allowed for Boltwood's loss. See chapter 6, *ante*, and note.

|| *Mass. Archives, vol. 122, p. 223.*

¶ See resolve, 1705-6, chapter 32.

This scalp † pd
by the Gen^l
Assembly in
answ^r to their
Petition.

p^d by gen^l
assembly §

Chap. 111. This chapter is from the Boston News-Letter, No. 42.

The proclamation was issued upon the advice of the Council, as follows:—

"Jan. 22, 1704-5. Advised. That Thursday the first of March next be solemnized as a day of Fasting with prayer throughout this Province."—*Executive Records of the Council*, vol. 4, p. 142.

If this were the only record of legislative action respecting this fast, the proclamation would not properly have a place here, since it would be purely an executive proceeding; but the message of the representatives of November 3, 1704, of which a part is given in the note to chapter 69, *ante*, not only requested the appointment of a day of thanksgiving but contained the following additional clause:—

"And Some time after a Day of Solemn Praier with Fasting."—*Mass. Archives*, vol. 11, p. 194.

Although this proposal of the House was not agreed to at that time, the above advice of the Council, though deferred nearly three months, was a sufficient concurrence; and thus the agreement of the two branches, ratified and consented to by the Governor, constituted a complete act of legislation.*

No other record of the proclamation itself has been found.

Chap. 112. This chapter is from archives, vol. 3, p. 105. It is recorded in council records, vol. VIII., p. 106.

For the particulars of the service performed by the commissioners named in this chapter see chapter 81, *ante*, and note.

The commissioners had already been paid five pounds, each, under resolve, chapter 97, *ante*, besides the twenty pounds advanced to Lynde for their subsistence while on the journey, as shown in the note to the last-named chapter.

The order in Council † for the payment of these allowances was passed March 3, 1704-5, and the province treasurer's account ‡ shows that they were duly paid.

Chap. 113. This chapter is from council records, vol. VIII., p. 107. It has not been found in the archives.

The purpose of the address to the queen, contemplated in this chapter, was to reinforce the address and memorial for a supply of warlike stores which it was the errand of Captain Cary to negotiate for in the voyage § that he undertook in the *Sea Flower* in July previous. Upon the capture of that vessel, all her cargo, the proceeds of the sale of which were intended to be used in defraying the expenses he might incur in procuring these warlike stores, was confiscated by the enemy. The news of this capture was probably brought to Boston by Captain Welch, who arrived certainly before January 18, 1704-5; || and it was probably his relation of the miscarriage of Cary's venture in the *Sea Flower* that led to this renewed appeal to the queen for succor.

The last day of the fourth session of 1704-5, was the sixth of January. On that day, the Council having despatched all business before them and the Governor having intimated his readiness to prorogue the Assembly, the representatives sent up a message by "Capⁿ Goodhue & m^r Cnshing two of y^e Representatives . . . to his Excy. that the House had several things under consideration that were not finished and could not be brought forward presently.

His Excy. made Answer that if they had any thing before them for the Service of the Province, he was content they should sit." ¶

Thereupon the vote which constitutes chapter 109, *ante*, was sent up and passed, and another message was sent down by the Secretary,—

"to Acquaint y^e howse the Board had nothing before them; and to desire to know y^e heads of the buisness under consideration in yt House that his Excy may direct an Adjournm^t accordingly." ¶

In response to this, the order which constitutes chapter 110, *ante*, was sent up and passed, and thereupon,—

"His Excy. sent a message by the Secry. to y^e House yt this Court be adjourn^d to Tuesday next. And yt all y^e members of that House that are withdrawn be strictly Summoned in.

A message from y^e House by m^r Oliver That if it be thought there will be an opportunity for meeting to address Her Maj^{ty}. before the mast Ships Saile. that the Court may be Prorogued for some time." **

Upon receipt of this message,—

"His Excellency proposed that a Committee be appointed to prepare the Draught of an Address to be laid before the Court just at their next Sitting down." ††

Upon this the Council received,—

"An other Message from the House, That they could not agree about a Committee for an Address, And that some thing might happen in the Vacancy to give further Matter for the same," †† and then,—

* From the following entry in Sewall's Diary it would seem that the expression of the desire of the House was repeated to the Council by the Speaker during the fourth session:—

"Jan^y 6. [1704-5.] . . . Speaker intimated their Desire of a Fast."—*Vol. II.*, p. 121.

† *Executive Records of the Council*, vol. 4, p. 154.

‡ *Mass. Archives*, vol. 122, p. 223.

§ See note to chapter 42, *ante*.

|| See *Executive Records of the Council*, vol. 4, p. 140, where his return is mentioned.

¶ *Mass. Archives*, vol. 43, p. 363.

** *Ibid.*, p. 369.

†† *Council Records*, vol. VIII., p. 104.

"His Excy. signified his pleasure That this Court be prorogued to Wednesday ye 21st of Febr^y. next at ten in ye morning. And sent a message by the Secretary E^k Hutchinson and Sim. Stoddard Esq^{rs} to Acquaint m^r Speaker and the House therewith and to publish ye Prorogation wch was accordingly performed." — *Mass. Archives*, vol. 48, p. 369.

The subject of the address was brought up again in the fifth session (February 21, 1704-5), by the Governor, who thus referred to it in his opening speech:—

"Gentlemen

The present session is at your own desire in order to your humble address to her Majesty & representation of the present state of the affayres of the province referring to the warr & otherwise, I shall be glad to see that so truly & Dutifully set down, as may move her Majesty in her Royall favour to do that which is necessary for our support which we cannot do for our selves for the Guard of the Coast & the Supply of great Ordonance, small armes & other stores of warr,

I am very sensible this Government has neeglected some things which her Majesty has been pleased to Comand since my being in this station which I am humbly of opinion has Interrupted the Course of Her Majestyes most Grations supplies necessary for this province however if we shall now look forward & do our Duty there shall be nothing wanting on my part to represent the state of your affayres to your best advantage in all things." — *Ibid.*, vol. 108, p. 25.

On the next day the order for appointing a committee to prepare the draught of an address to the queen, which constitutes this chapter, was passed.

For further particulars concerning the address see chapter 120, *post*, and note.

Chap. 114. This chapter is from council records, vol. VIII., p. 107. It has not been found in the archives.

See resolves, 1703-4, chapter 95, and chapter 14, *ante*, and notes.

The order in Council * for payment of the allowance granted by this chapter was passed March 3, 1704-5, and the province treasurer's account † shows that it was paid.

Chap. 115. This chapter is from council records, vol. VIII., p. 107. It has not been found in the archives.

The form of this order dispensed with the necessity for a warrant to the province treasurer, who made the exchange as ordered and gave himself credit for the amount of the good bill in his account. ‡

See chapter 79, *ante*, and note.

Chap. 116. This chapter is from council records, vol. VIII., p. 107. It is preserved in archives, vol. 17, p. 154.

The following is the "petition and remonstrance" mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esq^r Cap^{tn} Generall and Governour in Chief, in and over her Maj^{ties} Province of the Massachusetts Bay; in Council; and to the hon^{ble} house of Representatives now in Generall Court assembled

The Remonstrance and Petition of James Allen of Boston in the County of Suffolke within the s^d Province Clerk; surviving ffeoffee in Trust and Execut^r of the last will & Testament of the late hon^{ble} Richard Bellingham Esq^r dec^d

Most humbly Shewth

That the said Richard Bellingham dyed seized in ffee, of a very considerable Estate, of houses & lands in the s^d County of Snffolke; & in and by his last will & Testament bearing date ye 28th Nov^r 1672, disposed thereof as followth. (That is to say). 'he gave to his beloved wife, the rent of that farme where Nicholas Rice then lived, to be paid her duly after his decease; as alsoe his dwelling hous with the yard & field adjoining, during her natrall life: To his only Son & his sons daughter, during their natural lives the Testator gave the farme Liev^t John Smith then possessed: and the Rents of his other two farmes in the occupation of John Belcher & Goodman Townsend, he gives towards the relief of the four Daughters of Coll Goodrick; and declares that after his owne & his wives decease, he gives the farme he had devised to her for her life, & after the decease of his son & his sons daughter, his whole Estate in Winnisimett, to be an annual Encourag^{mt} to some Godly Ministers & preachers, as shoud by his Trustees be judged faithfull to those principles in Church discipline owned & practiced in the first Church of Christ in Boston, whereof the Testator declared himselfe to be a member: And in his said will did request & appoint Mr John Oxenbridge, your Petr, Mr John Russell, and Mr Anthony Stoddard, to be ffeoffees in trust & Executors thereof; and thereby did desire them to observe the Instrucons therein given. Viz^t ffirst That in Convenient time a ministers, & meeting house be built at Winnisimett when sufficient he received out of the rents (2) That Lotts for dwellers & Inhabitants be given out, & Conveniency of land to the Ministers house. (3) That four or six more or less. young students be brought vp for the Ministry as the Estate will bear. (4) That somthing be allowed yearly to any Godly Congregational Minister who shall be willing to settle in that place. (5) That his Trustees. take care of his beloved wife to give her Councell as she needed, and help her as farr as they could, in the quiet Enjoy^{mt} of her Estate, & receiving of her Rent (6) That the Trustees meet twice a year at the least, as often else as they can or is need and that they be allowed what is meet for each meeting (7) That they allow annually as they shall think fitt to a Godly Congregational Minister, qualified as above, for his further support (8) That Every Quarter of the year one sermon be preached to instruct the people in Boston in Church discipline according to the word of God, and such Competent allowance be given to each of

* Executive Records of the Council, vol. 4, p. 154.

† *Mass. Archives*, vol. 122, p. 257.

‡ *Ibid.*, p. 235.

ym as his Trustees shall judge fitt or sufficient. as in & by the sd last will & Testam^t of y^e ^{vide y^e Will} sd Testator, very well proved according to Law & herewth exhibited doth more fully & at large appear.*

That soon afterwards your Petr Mess^{rs} Oxenbridge & Stoddard took vpon them the Charge and burthen of the said will, and did Exe^{nte}, until the same was contested by Mr Rich^d Wharton as Attorney to M^r Samuell Bellingham, at a Generall Court Especially called in Sept^r 1676, when the same was declared null & void in Law: We^{ch} Judgm^t or decree of that Especial hon^{ble} Court, (with most humble submission) was Erroneous. (1st) Because That Court, at that tyme had not the Jurisdiction or Cognizance of wills; but the County Court only. (2) That the will was really and *bona fide* the last will & testam^t of the s^d Rich^d Bellingham deceased and so proved to be; and not all the English Laws could sett aside, or Controul such a will: The Maxim in Law is. That the will of the Giver must be observed That faith & truth must be obeyed & what the last will does say, and Every man is a Law to himselfe as to the disposition of his owne Estate. & property. &^{ca}

That by means of that Judgm^t yor Petr is vtterly disabled to performe the will, & his incumbent duty: and the pious & Religious intentions of the Testator (long made known before his death) are thereby wholly frustrate & without effect; and the Estate now possess^d or claim^d by strangers, & persons not of the blood of the s^d Richard Bellingham; his s^d widdow & sonn being both dead.

Yor Petr therefore humbly intreats your Excy and this hon^{ble} Court, to assigne a day when he & the opposite parties Concerned, may by their Council be heard to argue the matt^{rs} of Law. referring to the s^d Will, and then your Petr cannot doubt but this hon^{ble} Court. will reverse the s^d former judgm^t, and by Act or Decree Enable him, faithfully to discharge his duty, according to Law, and the pious designe of his Testator.

JAMES ALLEN.* — *Mass.*

Archives, vol. 17, p. 153.

This petition was read in the House February 22, 1704-5. On the next day the resolve thereon, recited in the preamble to this chapter, was passed, with this addition: "the opposite parties concerned to be notified;" and was sent to the Council for concurrence. On the same day the Council nonconcurred in this vote of the House, but passed and sent down the vote which constitutes this chapter, which was immediately concurred in.

Bellingham, the alleged testator, was governor of Massachusetts Colony from June 2, 1641, to May 18, 1642, from May 3, 1654, to May 23, 1655, and from May 3, 1665, to December 12, 1672.

For subsequent proceedings on this petition, see resolves, 1706-7, chapter 28, and note.

Chap. 117. This chapter is from archives, vol. 101, p. 283. It is recorded in council records, vol. VIII., p. 109.

This order, the original draught of which is in the handwriting of Governor Dudley, was written upon a paper attached to the original draught of chapter 118, *post*, and apparently folded with that paper, and the amendments were on still another paper, attached in the same way.

Chap. 118. This chapter is from council records, vol. VIII., p. 109. It is preserved in archives, vol. 101, p. 284.

The resolve which constitutes this chapter was passed in the House February 23, 1704-5, and sent to the Council for concurrence. On the twenty-seventh it was concurred in, and consented to by the Governor.

An order * was passed in the usual form to the province treasurer for emitting the bills.

The tax act† for raising a fund and security for the drawing in and paying said bills was passed July 13, 1706.

Chap. 120. This chapter is from council records, vol. VIII., p. 110. It has not been found in the archives.

It was the intention of the Governor and Assembly to send to England the address which was to be prepared by the committee appointed in chapter 113, *ante*, by the Advice, man-of-war, which was at Piscataqua waiting to convoy thence to England the mast ships and such merchantmen as chose to avail themselves of the privilege.‡

On the eleventh of January, 1704-5, it was announced in the News-Letter § that Captain Salmon Morrice [Manrice] of the Advice would sail for England the first of March, with the two mast ships under his convoy, "who are making all possible dispatch in Loading;" and a month later the same paper declared that the ships would be ready to sail "against the middle of March at farthest."||

That nothing should be wanting on his part to have the address seasonably delivered at Piscataqua for transmission to London, the Governor had concluded his speech of the twenty-first of February with the following sentence:—

"I Desire you will dispatch your affayres with al speed for that the shippes are in a great forwardness to sayle & must not be delayed & her Majestye's affayres require my being at Piscataq; before their departure." — *Mass. Archives*, vol. 108, p. 26.

The committee proceeded with alacrity to prepare the address, and on the twenty-third reported a draught which, on the same day, was read in the Council. On the next day it was read again and "sent into the House of Representatives." On the twenty-sixth the

* March 29, 1705. Executive Records of the Council, vol. 4, p. 158.

† Province Laws, 1706-7, chapter 6.

‡ She arrived at Piscataqua before the twenty-third of November. — Boston News-Letter, No. 32. On the twenty-seventh a French prize taken by her came in at Rhode Island and was sent thence to Boston, arriving there on the fourteenth of December. — *Ibid.*, Nos. 33 and 35.

§ No. 39.

|| No. 44.

representatives returned it "with some Addition thereto made by that House." It was then read and debated in Council, "And some Amendments proposed to be drawn up by the Secretary and Offered To Morrow."* On the twenty-seventh the following entry appears in the council record :—

"The Emendations made of the Address to her Majesty were read & Agreed to & sent into the House, And the Address with those Emendations drawn therein to was pass'd, & afterwards pass'd in Council to be Engross'd."—*Vol. VIII., p. 109.*

The address was signed on the twenty-eighth, as appears in the text.

It being now probable that the Advice would soon begin her homeward voyage† the Governor set sail for Piscataqua on the ninth of March,‡ probably taking with him the address. The Advice, however, did not depart until some weeks later,§ as appears by the following in the News-Letter :—

"*Portsmouth N Hampshire*, April 6. This day Capt. *Morrice* Commander of Her Majesties Ship the Advice, Sayled from *N. Castle*, bound for *England*, with the Vessels under his Convoy, viz. The two Mast Ships, *Cpts. Eason and Martin*, 6 Merchant men, viz. *Cpts. Balston, Corney, Charnock, Vincent, Thomas and Wilde* (from *N. York* that arrived here the 1st. Currant,) 2 *Briganteens, Troy & Estes*, 2 *Ketches, Almerly & Waterhouse*, 2 *Sloops, Sears and Ball.*"—*No. 51.*

The Governor returned in the vessel in which he went out. He encountered a violent storm and for some time it was feared that his vessel had foundered. Of this storm, the damage done to the brigantine, and the Governor's escape, the News-Letter gives the following accounts :—

"*Piscataqua*, March 16. The Briganteen in which our Governour|| was on Board, being on Saturday last at noon within two miles of our Harbour, and a most violent Storm coming up, we thought it impossible the Briganteen could be saved, which put us all here into a very great Consternation, but last night by an Express from his Excellency at Cape Anne, we had the glad tydings of his safe arrival there, which caused an universal rejoycing here. . . .

On Thursday last, We had the good News of the Governour's being safe Arrived in Cape Anne Harbour, having been forced to Cutt away all the Masts of the Briganteen upon which he was Imbarqued, and Ride under Cape Anne four days in an extraordinary Storm of Wind; but the Briganteen being New and her ground Tackle Good, she was Saved from falling upon the Rocks of that Cape to the Leward all that time; And is now returned to this place to the great Rejoycing of all Her Majesties good Subjects of both the Provinces."—*No. 48.*

Seawall makes the following entries respecting the Governor's providential deliverance :—

"March, 15. between 10 and 11. m. I rec. Brother's Letter giving an account of the extraordinary danger the Gov^r had been in, and their wonderfull Deliverance that was at Gloucester, and were going to fetch him to Salem.

March, 17. Mr. E^m Hutchinson carries me in his chariot to meet the Gov^r; was got home and at Diñer: After Diñer were call'd in: Told the Gov^r I did congratulat His Excellency and the Province upon the great Salvation God had wrought for him."—*Diary, vol. II., p. 126.*

The apprehension concerning Dudley's safety was shared by his associates in the government of New Hampshire. Under date of the fifteenth of March, the following entry appears in the records of the council :—

"His Honor [Lieutenant-Governor Usher] was pleased to acquainte this Board, that he thought to have seen his Excellency here at his coming, but considering the Providence of God hath put the vessel off to sea, that his Excellency was coming here in, therefore he proposed to this Board to have their opinion about sending an Express to Boston to inquire about his Excellency; as also to acquainte that Govern^{mt} that the Man-of-War and Mast Shippes were ready to Sail next week,—lest they might have any occasion for her Maj^{ty}s service.

Whereas, there is a Brigantine off this Harpor expected in here this night; and there be noe account of his Excellency, then to send an Express away as above with all Expedition.

His Honor also acquainted this Board that his Excellency was willing to be here at the sitting of the Assembly; and therefore he had adjourned said Assembly, till to-morrow morning, ten of the clock and proposed to have a further adjⁿ in hopes of his Excellency's arrival."—*Provincial Papers of New Hampshire, vol. II., p. 456.*

Before his departure Dudley had issued the following proclamation for thanksgiving for the great victory at Blenheim :—

"By His EXCELLENCY, JOSEPH DUDLEY Esq. Captain General and Governour in Chief, in and over Her Majesties Provinces of the *Massachusetts-Bay* and *New-Hampshire* in *New England*.

A PROCLAMATION for a General Thanksgiving.

IT having pleased Almighty GOD of His Great Goodness and Mercy, to Afford His Protection and Assistance to Her Sacred Majesty in the Just War. In which, for the common

* Council Records, vol. VIII., p. 108.

† "Capt. *Morrice* in Her Majesties Ship the Advice designs to Sail for *England* with the Mast-Ships and Merchant men under his Convoy, on *Fryday* the 16th Instant."—*Boston News-Letter, No. 47. March 5 to 12, 1704-5.*

‡ "March, 9. [1704-5.] Gov^r sails for *Piscataqua* in a Briganteen belonging to Capt. *Belchar* and Mr. *Pepperell.*"—*Seawall's Diary, vol. II., p. 126.*

§ "On *Fryday* the 9th Currant, His Excellency went for His Government of *New-Hampshire.*"—*Boston News-Letter, No. 47.*

|| Twice during the month of March the News-Letter predicted the speedy departure of the mast-ships and their convoy. The former of these predictions (on the twenty-sixth) was that they would "sail the middle of next week." See Nos. 49 and 50.

|| *Sic.*

Safety of Her Majesties Realms, and for disappointing the boundless Ambition of France, Her Majesty is now Engaged; And hath given to Her Majesties Armies, in conjunction with Her Allies, under the Command of his Grace the Duke of Marlborough, Captain General of Her Majesties Land Forces, a Signal and Glorious Victory, over the French and Bavarian Forces at Blenheim near Hockstet in Germany.

And such Great and Publick Blessings calling for Publick and Solemn Acknowledgements.

I do, by Her Majesties Especial Command, Order and Appoint, That a General THANKSGIVING to Almighty GOD, for these His Mercies, be Religiously Observed throughout these Provinces, upon Thursday the Twelfth of April next: Exhorting both Ministers and People in their Publick Assemblies on the said Day, most devoutly to Celebrate the Praises of Almighty GOD, for His so Great Favours and Blessings bestowed.

Given at Boston the Eighth Day of March, 1704. In the Fourth Year of Her Majesties Reign.

By His Excellency's Command,
Isaac Addington, Secy.

J. DUDLEY

GOD Save the QUEEN." — *Boston News-Letter*, No. 48.

He now issued a further proclamation assigning additional causes for solemn acknowledgment. This was done pursuant to an order in Council, of which the following is the record:—

"March 19, 1704-5. Whereas by Her Majesty's especial Command to his Excellency which he received while absent on his voyage Eastward, There was a Proclamation issued for a general thanksgiving upon Thursday the twelfth of April next, for the causes therein mentioned.

Since which the Forces that were sent to Noridgewock being well returned, and found the Enemy fled, and their Fort deserted; and his Excellency being very wonderfully preserved from Shipwreck, by the good providence of Almighty God.

It's Ordered. That the above^d day be duly observed for Publick thanksgiving, and these causes are recommended for solemn acknowledgement on the same." — *Executive Records of the Council*, vol. 4, p. 156.

The second proclamation was as follows:—

"Province of the Massachusetts-Bay
By the GOVERNOUR and COUNCIL.

Whereas by Her Majesties Especial Command to His Excellency, which He received while He was absent on His Voyage Eastward, There was a Proclamation Issued for a General THANKSGIVING upon Thursday the Twelfth of April next, for the Causes therein mentioned.

Since which, the Forces that were sent to Noridgewock, being well returned, and found the Enemy fled, and their Fort deserted: And His Excellency being very wonderfully Preserved from Shipwreck, by the good Providence of Almighty GOD.

It's Ordered,

That the above said Day be duly Observed for Publick THANKSGIVING; And these Causes are Recommended for Solemn Acknowledgements on the same.

Council-Chamber in Boston, March 19th, 1704,

Isaac Addington, Secy." — *Boston News-Letter*, No. 49.

It would seem that the business upon which the Governor had intended to meet the council of New Hampshire before the sailing of the fleet was to cooperate with them in the preparation of a memorial* to the Board of Trade from that province, containing an account "of the Reforming of her Majtys Fort Wm. and Mary,† at New Castle, which is now in a posture of defense against the Enemy, and that it may be also laid before them the want of powder and ammunition for said Fort; and that they would lay before her Majesty that she would be graciously pleased to send forty souldiers at the charge of the Crown for the defense of said Fort; the people in said Province being burthened with the Indian wars, and become miserable poor, &c.;"‡ together with an address to the Lords of Trade of the Privy Council concerning the same.

Chap. 121. This chapter is from council records, vol. VIII., p. 111. It has not been found in the archives.

The following petition is the only "account" that has been found which seems to belong to this chapter:—

"To His Excellency Joseph Dudley Esqr Capt General & Governour in Chief in & Oner Her Majties Province of the Massachusetts Bay in New England. &c. And to the Honble Her Majties Council and Representatives Assembled, at Boston the 25th October 1704

The Petition of John March of Casco

Humbly sheweth

That Whereas, the Said petitioner Laboured on the Old Fort at sd Casco in the repairing the same twenty four dayes, and twenty nine dayes, to help build the new fort at sd place last fall, and Senenty four dayes their on since the 18th day of May last, being in all 127 dayes and wrote duely & faithfully the sd term, and contrinued and proiected, the affair, and Employed & Improuned all other the labourers to the best advantage in the said service, And Your petitioner Doubts not but that yor Excellency & your Honours,

* This memorial was read at the board on the twenty-sixth of March, and ordered to be sent by the mast fleet.—*Provincial Papers of New Hampshire*, vol. II., p. 459.

† This is the fortification at Piscataqua from contributing to the charge of which the Legislature of Massachusetts asked to be excused in the address which constitutes chapter 56 of the resolves of 1705-6.

‡ *Ibid.*, p. 457, and see note to resolves, 1705-6, chapter 52.

would be well satisfied therewith on sight or Information thereof, and your Petitioner having meet wth Considerable loss & damage at s^d Casco on the brakeing out of the Indians, w^{ch} your Excellcy and Honours are sensible of, praying you would be pleased to Consider his Circumstances and allow him for the s^d service what in your wisdom shall seem mete. And Remain most Perfectly

Yo^r Excellency & Honours Most Humble & Most Obedient servant

JOHN MARCH." — *Mass.*

Archives, vol. 71, p. 74.

This petition was read in Council on the twenty-seventh and sent to the House, where it was read on the twenty-eighth and again on the thirty-first. The following order was then passed thereon and sent to the Council for concurrence:—

"This House not finding that any Part of the Grants of money, hitherto made is Intended for or applied to, the Inlarging of Casco fort

Ordered That no Sum be Allowed or Paid out of the publick Treasury upon the account afores^d." — *Ibid.*, p. 75.

It appears to have been taken up again in the House during the fourth session, but after one reading seems to have been dropped. In the fifth session, however, it was allowed by the vote which constitutes this chapter. On the third of March, 1704-5, an order was passed in Council* for a warrant to the treasurer to pay the amount asked for, which was included, with other allowances charged, in a total of £562 14s. 1d. in the province treasurer's account.†

The following paper is on file with March's petition and though not specifically mentioned by the petitioner, nor in the resolve, may have been considered in estimating the amount allowed:—

"September y^e: 7th: 1704:

By order of his Excellency to Co.^{ll}: march

These may Sertify whom it may concern that we the Subscribers by the order of S:^d march and y^e Desier of Joseph Bailey haue vewed a house of S:^d Baileys now Standing in Casco ffort and we do account him richly worth twelue pounds in Siluer money

JOHN DALLE

JOHN WEBB.†" — *Ibid.*, p. 76.

This paper is endorsed:—

"Colo March — 16^d P day Carpent^rs & Joiners — 12^d. P day the Lab^rs. 8^d P day — board/ 35^e P man (½) Timber & Junk unsertaine." — *Ibid.*, p. 76.

Chap. 122. This chapter is from council records, vol. VIII., p. 111, and archives, vol. 48, p. 370.

The following is the account presented by Governor Dudley, on which he founded his claim for reimbursement:—

"Mr Phipps in his letters & accounts from Whitehall Charges the Govern-
ment of the province with Charges & Expences

in one Account	18.	2.	11
in another account paid to M ^r Aldeny	1.	4.	0
	19	6.	11

and having some money of Mine to Receive has paid himself that sume
I Desire I may be reimbursd

J DUDLEY." — *Mass.*

Archives, vol. 48, p. 370.

The resolve which constitutes this chapter originated in the House and was passed through all its stages in both branches and was consented to by the Governor on the same day.

The order in Council § for the payment of this allowance was passed March 3, 1704-5, and the entry made by the province treasurer is as follows:—

"Paid Mr John White on behalfe of his Exceley y^e Governour for soe much money of his in Engl^d w^{ch} Mr Phipps paid himselfe for his expences & charges in his letters & Accountts charged to y^e Govern-
ment of y^e Province Allowed by y^e Gen^l Assembly 19, 6, 11."
— *Ibid.*, vol. 122, p. 228.

Chap. 123. This chapter is from council records, vol. VIII., p. 111. It is preserved in archives, vol. 71, p. 120.

The resolve which constitutes this chapter is based upon the following petition:—

"To His Excellency Joseph Dudley Esq^r Captain Generall, and Governour in chief of her Majesties Province of the Massachusetts, and to the Hon^{ble} the Council and Representatives in Generall Court Assembled

The Petition of John Walker

Most humbly Sheweth.

That Your Petitioner a few years Since Erected a House at Casco Bay, very near to the first fort built there, which House was 22 foot long, 20 foot wide, built with hewed logs up to the Eves the Roof Boarded, and shingled, with a chimney Cellar and two floors Laid, which Took up at least Two Thousand and five hundred foot of Boards, and

* Executive Records of the Council, vol. 4, p. 154.

† *Mass. Archives*, vol. 122, p. 220.

‡ This name is obscurely written. At that date there was a Jonathan Webb at Wells; and a John Wells of Boston, who owned land in Maine; and another John Wells in York, "a soldier," who bequeathed all his estate to Elisha Allen of York, 13 April, 1723, and a John Wells of Wells, who, in 1748, was "of very advanced age," and whose son John survived him.

§ Executive Records of the Council, vol. 4, p. 153.

four Thousand of shingles which Cost your Petitioner the Boards 40/ P Thousand and the Shingles 12, or 14/ P M. and The whole of the s^d Building Cost at least Twenty four Pounds. And when The Port was by order of Authority Enlarged, your Petitioner's House aforementioned, was Inclosed therein, and by Col^l Romer her Majesties Engineer, was Taken up and Appropriated to her Majesties Service, as an hospital, and Lodgings for the Chirurgion, and the said Engineer Bargained with, & Promised your Petitioner that he Should be paid nineteen Pounds for the s^d Building so Impropriated and at this time Improved for the publick Service,

Your Petitioner therefore humbly Prays your Excellency & Hon^{rs} to Take the Premises into your Consideration, and Grant your Pet^r Pay for his s^d House, as you have seen meet in your Justice to Grant to others whose Houses have been at the Same Port, so Taken up for the publick service.

And Y^r Petitioner Shall as in Duty bound ever Pray &c^a
Feb: 23: 1704

JNO WALKER."—*Mass.*

Archives, vol. 71, p. 119.

The resolve was passed in the House on the last day of February, and sent to the Council for concurrence, where, on the same day, it was concurred in, and consented to by the Governor.

The order in Council * for the payment of this allowance was passed March 3, 1704-5, and the province treasurer's account † shows that it was paid.

Chap. 124. This chapter is from archives, vol. 101, p. 280. It is recorded in council records, vol. VIII., p. 111.

This chapter fixes the compensation of the committee for their services under chapter 38, *ante*. Under the act of March 29, 1704, the number of bills of credit, amounting to ten thousand pounds in nominal value, was ten thousand two hundred and forty-one, whereas the number of bills under the present chapter, though of only the nominal value of five thousand pounds, was seven thousand five hundred and four. The compensation of the committee for signing the former was fifty pounds,‡ for which a warrant was ordered by the Council, § July 1, 1704, and paid by the province treasurer. ||

By chapter 45, *ante*, it was resolved to increase the compensation of the committee proportionately to the increase of the number of the bills printed. For preparing the issue under this chapter, therefore, the committee estimated as their due £36 12s. 9d.

The following is the committee's account of the number of bills printed, and the amount of money they represented:—

"Anno 1704.	The Account of Pro- duce Bills made	5. pounds	2. pounds	40 shill Bills *	20. shill Bills *	10. shill Bills	5. shill Bills	2 s. 6 Bills	2. shill Bills	" li "	s "	d
7br & 8br Novembr "	To pd ye Treasur ^r To more bills ready only wanting to be signd by Jno Leuerett Esq ^r	" "	" "	.920	.109	.927	.926	1248	.1233	.2923	.6	..
		.3	.3	.332	1150	.326	.327	-	-	.2082	.15	-
		.3	.3	1252	1259	1253	1253	1248	1233	5006	1	..
Memorand ^m	The last 10000 ^u in Bills was but					10241				1248		
	And this 5000 is .					.7504				1253		
										1253		
	Dew To Jos: Allin for printing—1250 Sheets					£10: 8: 9				1259		
	To m ^r Sam ^l Phillips P paper					£3: 14: 0				1252		
										...3		
										£14: 2: 9		
	Dew To the Committe in P ^r portion as Above for Signeing Triming & finishing y ^e sd 7504 Bills									.36=12. 9d		
										£50, 15, 6		
										7504 Bills—		

Dated in Boston y^e 18th Novembr 1704

J^a RUSSELL

in behalf of

the Committe for Bills."—*Mass. Archives*, vol. 101, p. 272.

The committee's statement of the balance remaining in their hands, the treasurer's receipt for these bills and the fact of the burning of bills not otherwise accounted for are given below:—

"1704 Ann Account of New Province Bills received of James Russel
Elisha Hutchinson Samuel Legg & John Leverett Esq^r Com-
mittee appointed by the General Assembly for y^e making
& printing of Bills Credit

* Executive Records of the Council, vol. 4, p. 154.

† *Mass. Archives*, vol. 122, p. 231.

‡ Province Laws, 1703-4, chapter 16, § 2.

§ Executive Records of the Council, vol. 4, p. 35.

|| *Mass. Archives*, vol. 122, p. 228. The total of the item charged in the province treasurer's account is £114 19s. 4d., made up of the fifty pounds allowed by the act, the £36 12s. 9d. by chapter 46, *ante*, and twenty-eight pounds allowed by the present chapter.

Septem ^r 26:	733: 2/ from N ^o 4500: to 5233	. . .	:73	..	.6	..	-	
	748: 2/ 6 from N ^o 4500: to 5248	. . .	93	..	10	..	-	
	95: 10/ from N ^o 5205: to 5300	. . .	47	..	10	..	-	
	100*: 5/ 10/ 40/ from 5300: to 5400	. . .	275	..	..	..	-
	paid Andrew Belcher Esq ^r	. . .	1500	..	..	..	-	1989 .. .6 .. -
Octo ^r :	19: 100: 40/ 10/ 5/ from N ^o 5500: to 5600	. . .	275	..	..	..	-
	100: 40/ 10/ 5/ from N ^o 5700: to 5800	. . .	275	..	..	..	-
	100: 40/ 10/ 5/ from N ^o 5900: to 6000	. . .	275	..	..	..	-
	9: 20/ from N ^o 5991: to 6000	. . .	9	..	..	..	-
	100: 20/ from N ^o 6300: to 6400	. . .	100	..	..	..	-	934 -
Novem ^r 21.	200: 20/ from N ^o 6600: to 6700.	. . .						
	& N ^o 7100. to 7200	. . .	50	..	..	..	-	200 -
Decem ^r 5.	200: 5/ N ^o 5400. to 5500. N ^o 5800. to 5900	. . .	50	..	..	..	-
	100: 10/ N ^o 5800. to 5900	. . .	50	..	..	..	-
	300: 20/ N ^o 6400. to 6500. N ^o 6700. to 6900	. . .	300	..	..	..	-
	300: 40/ N ^o 5400. to 5500. N ^o 5600. to 5700:	. . .						
	N ^o 5800. to 5900	. . .	600	..	..	..	-	1000 -
	9 Paid to Andrew Belcher Esq ^r	. . .						167 -
26. Recd	. . . . .	. . .						709 .. 14 .. -
								5000 -."

— *Ibid.*, p. 279.

"Boston Decem^r 26th 1704

Recd of the above Committee at y^e several times above expressed in all amounting to five thousand Pounds of Province Bills of Credit.

JAM^s: TAYLOR Treas^r:

Md^m There is Six pounds one shilling Resting in y^e Comittees hands in 5^e bills So y^e whole Bills paid & Resting are 7504: whereas y^e last 10000ⁿ was butt 10241. Bills in all as y^e Accot given to y^e Hon^d Court 9th 18: 1704: in behalf of the Committee;
¶ m the rest of the Bills are burnt JA: RUSSELL."—*Ibid.*

Chap. 125. This chapter is from council records, vol. VIII., p. 112.

The original resolve is not in the custody of the Secretary of the Commonwealth, but in a private collection. The Editor is indebted to Grenville H. Norcross, Esquire, for the use of this document, which shows the progress of the resolve through its different stages.

Although in the third session the Council sent a message to the representatives "to move that House for a Grant for the Support of the Governour & the Secretary, And to know what Consideration they have had of the Memorial presented by the Judges,"† the Governor seems to have maintained silence on the subject of his salary in his speeches and messages to the Assembly until the twenty-seventh of December, when he thus alluded to the effect the action of the representatives on this head had had upon the Lords of Trade:—

"... Their Lordships are pleased to adde in this article that they would know how her Majesty shall be reimbursed, because as their Lordships words are, it is unreasonable the assembly of the massachusetts bay should Expect that they should be furnished with stores of Warr at her Majestyes Expence, while they of all the Colonyes in america do alone refuse to settle a salary upon her Majestyes Governour & other officers there. . . ."
— *Mass. Archives*, vol. 108, p. 24.

Two days later "A Message was sent to the Representatives by Wait Winthrop, Penn Townsend, John Higginson, Samuel Appleton Esq^r & the Secretary at the unanimous Desire of the Council (Supposing the Session to be short) That a just & honourable Supply may be made to the Governour by this Session for his Support for the remaining Part of this Year, And to desire that House to move first therein."‡

Nothing further appears to have been done during this session. In his opening speech in the fifth session the Governor took occasion to hint that the failure of the representatives to establish a permanent salary for his office was one of the causes of delay in the supply of small arms, ordnance and other stores of war from England, as shown in the note to chapter 113, *ante*.

On the twenty-eighth of February, 1704-5, the resolve which constitutes this chapter was passed by the House and sent to the Council, where it was concurred in on the same day. It was consented to by the Governor on the second of March.§

On the next day an order|| was passed for a warrant to the province treasurer to pay this amount, and it was paid as shown in the note to chapter 15, *ante*.

Chap. 126. This chapter is from council records, vol. VIII., p. 112. It has not been found in the archives.

The order in Council¶ for the payment of the allowance granted by this chapter was

* That is, one hundred pieces, each containing three bills, of forty, ten, and five shillings, respectively.

† Council Records, vol. VIII., p. 91. November 18, 1704.

‡ *Ibid.*, p. 98.

§ Sewall's Diary contains the following entry:—

"March, 2. [1704-5.] Deputies present the Gov^r with Two Hundred pounds . . ."—*Vol. II.*, p. 125.

|| Executive Records of the Council, vol. 4, p. 153.

¶ *Ibid.*, p. 154.

passed March 3, 1704-5. For reference to the payment by the province treasurer see the note to chapter 34, *ante*.

Chap. 127. This chapter is from council records, vol. VIII., p. 112. It has not been found in the archives.

Captain John Woodman was of Dover and it would seem kept the ferry at Oyster River, where he had a garrison. He died about 1707. John Kent, master of the sloop Planter, was probably of Newbury (see Felt's *Annals of Salem*, 1st ed., p. 294).

The order in Council* for the payment of these allowances was passed March 3, 1704-5.

The following is the entry of payment made by the province treasurer in his account:—

“Paid John Woodman for ferrage & J^{no} Kent master of y^e Sloop Planter
& Abraham Preble for divers persons sent Post &c^t Allowed by y^e
General Assembly 16^{rs} 16^{ds} 10.”

— *Mass. Archives*, vol. 122, p. 233.

Captain Abraham Preble was of York and represented that town in the Legislature of 1703-4. He also commanded a company there from October 6, 1703, to February 29, following. Hence, probably, all the persons sent post were of that town or vicinity, and united in authorizing him to receive pay for them; or, more likely, the money was paid to reimburse him for advances to them.

Chap. 128. This chapter is from archives, vol. 71, p. 121. It is recorded in council records, vol. VIII., p. 113.

The order which constitutes this chapter originated in the House and was passed by both branches and consented to by the Governor on the same day.

The committee employed John Roberts to repair “the great boat belonging to the Castle.” Roberts’s account has not been found but the following entry in the executive records of the council shows the amount of his charge and the date of the order for a warrant to the province treasurer for the payment† thereof:—

“Feb. 22, 1705-6. Andrew Belcher Esq^r Lt Col^l Samuel Checkley & Cap^tn Ephraim Savage a Committee appointed by the Generall Assembly to take care for the repairing of the great Boat belonging to her Maj^{ty}’s Castle; reported upon the account of John Roberts (whom they improved to do the same) a ballance of Thirty two pounds, ten shillings due to him over and above twenty one shillings discounted wth him for the old Timber.

Advised and Consented, That a Warrant be made out to the Treasurer to pay the above sum of thirty two pounds, ten shillings to the s^d John Roberts accordingly.” — *Vol. 4*, p. 267.

Chap. 129. This chapter is from council records, vol. VIII., p. 113. It is preserved in archives, vol. 101, p. 286.

While the bill of chapter 8 of the acts of the year 1704-5, against counterfeiting the province bills of credit, was pending, an attempt was made to enact a bill to prevent making or passing base or counterfeit coin. Neither the abortive bill for this purpose, which was read twice in the Council, nor the order passed the next day appointing a committee to consider it, has been found in the archives, but the latter is thus recorded in the legislative journal of the Council:—

“Aug. 19, 1704. The following Order was sent up from the Representatives; Viz,

Ordered that Cpt. Checkley, Mr Denison & Mr Holyoke be a Committee to join with such as the Hon^{ble} Board shall appoint to Consider of the Bill entitled An Act for the Explanation & in Addition to the Act against the Making & Passing of base & Counterfeit Money, & also to consider of & offer to this Court at their next Session what Expedients they think will best remedy & reform the ill State of the Coin:—W^{ch} Order being read was Concur^d wth, And Elisha Hutchinson, John Foster, John Wälley, Eliakim Hutchinson, and Edward Bromfield Esq^r nominated to be a Committee of this Board for the Affair afore said.” — *Council Records*, vol. VIII., p. 72.

No report of the committee has been found.

In the vacation between the third and fourth sessions, the Governor received a copy of the queen’s proclamation, given below, together with a command to cause it to be published, communicated in a letter from the Lords of Trade. He therefore ordered‡ that the proclamation (to which, as printed, was appended a table of rates at which foreign coins were to be allowed to pass current) be published, as follows:—

“By the QUEEN,
A PROCLAMATION,

For Settling and Ascertaining the Current Rates of Foreign Coins in Her Majesties Colonies & Plantations in America

ANNE R.

WE having had under our Consideration the different Rates at which the same Species of Foreign Coins do Pass in Our several Colonies and Plantations in America, and the inconveniencies thereof, by the indirect Practice of Drawing the Money from one Plantation to another, to the great Prejudice of the Trade of our Subjects: And being Sensible, That the same cannot be otherwise Remedied, than by Reducing of all Foreign Coins to the same Current Rate within all Our Dominions in America; And the Principal Officers of Our Mint having laid before Us a Table of the Value of the several Foreign Coins which usually Pass In Payments in our said Plantations, according to their Weight, and the Assays made of them in Our Mint, thereby shewing the just Proportion which

* Executive Records of the Council, vol. 4, p. 154.

† *Mass. Archives*, vol. 122, p. 260.

‡ November 29, 1704. Executive Records of the Council, vol. 4, p. 116. It was published in New York, January 22, 1704-5. Boston News-Letter, No. 42.

each Coin ought to have to the other, which is as followeth, *viz* *Sevill* Pieces of Eight, Old Plate, Seventeen Pennyweight Twelve Grains, Four Shillings and Six-pence; *Sevill* pieces of Eight, New Plate, Fourteen Penny-weight Three Shillings Seven Pence One Farthing; *Mexico* Pieces of Eight, Seventeen Penny-weight Twelve Grains, Four Shillings and Six Pence; *Pillar* Pieces of Eight, Seventeen Penny-weight Twelve Grains, Four Shillings & Six pence Three Farthings; *Peru* Pieces of Eight, Old Plate, Seventeen Penny-weight Twelve Grains, Four Shillings & Five Pence, or thereabouts; *Cross Dollars*, Eighteen Penny-weight, Four Shillings and Four Pence Three Farthings; *Ducatons of Flanders*, Twenty Penny weight and Twenty One Grains, Five Shillings and Six Pence; *Ecu's of France*, or *Silver Lewis*, Seventeen Penny-weight Twelve Grains, Four Shillings and six pence; *Crusadoes of Portugal*, Eleven Penny weight Four Grains, Two Shillings and Ten Pence One Farthing; Three Gilder Pieces of *Holland*, Twenty Penny weight and Seven Grains, Five Shillings and Two Pence One Farthing; Old *Rix Dollars* of the Empire, Eighteen Penny-weight and Ten Grains, Four Shillings & sixpence; The Half, Quarters, and other parts in Proportion to their Denominations, and Light Pieces in Proportion to their Weight: We have therefore thought fit for Remedying the said Inconveniencies, by the Advice of Our Council, to Publish and Declare, That from and after the First Day of *January* next ensuing the Date hereof; no *Sevill*, *Pillar* or *Mexico* Pieces of Eight, though of the full Weight of Seventeen Penny-weight and an half, shall be Accounted, Received, Taken or Paid within any of Our said Colonies or Plantations, as well those under Proprietors and Charters, as under Our immediate Commission & Government, at above the Rate of Six Shillings *per* piece Currant Money for the Discharge of any Contracts or Bargains to be made after the said First Day of *January* next, the Halfs, Quarters, and other lesser Pieces of the same Coins to be Accounted, Received, Taken, or Paid in the same proportion; And the Currency of all Pieces of Eight of *Peru*, *Dollars*, and other Foreign Species of Silver Coins, whether of the same or Baser Alloy, shall, after the said First Day of *January* next, stand Regulated, according to their Weight and Finess, according & in proportion to the Rate before limited and set for the pieces of Eight of *Sevill*, *Pillar*, and *Mexico*; So that no Foreign Silver Coin of any sort be permitted to exceed the same proportion upon any Account whatsoever, And We do hereby Require & Command all Our Governours, Lieutenant-Governours, Magistrates, Officers, and all other Our good Subjects within Our said Colonies and Plantations, to Observe and Obey Our Directions herein, as they Tender Our Displeasure.

Given at Our Castle at *Windsor*, the Eighteenth Day of *June*, 1704 In the Third Year of Our Reign.

GOD Save the QUEEN."—*Boston News-Letter*, No. 34.

December 4 to 11, 1704.

"A Computation made by Mr. Newton,* Master-Worker of the Mint, according to which all Foreign Coins may Pass in Her Majesties Plantations, in Proportion to the Rate Limited in Her Majesties Proclamation for Pieces of Eight of *Sevill*, *Mexico* and *Pillar*.

Weight and Intrinsick value of the following Species.	Rate of the said Pieces in Proportion to the Limitation made by the said Proclamation.					
	Weight Pennywt.	Gr.	Value Shil. Pence.			Shil. Pence
Sevill Pieces of Eight Old Plate . . .	17	12	4 6	—		6
Sevill Pieces of Eight New Plate . . .	14		3 7½	—		4 9½
Mexico Pieces of Eight . . .	17	12	4 6	—		6
Pillar Pieces of Eight . . .	17	12	4 6¾	—		6
Peru Pieces of Eight . . .	17	12	4 5	—		5 10½
Cross Dollars . . .	18		4 4¾	—		5 10½
Ducatons of Flanders . . .	20	21	5 6	—		7 4
Ecu's of France or Silver Lewis . . .	17	12	4 6	—		6
Crusados of Portugal . . .	11	4	2 10	—		3 9½
Three Gilder Pieces of Holland . . .	20	7	5 2½	—		6 11
Old Rix Dollars of the Empire . . .	18	10	4 6	—		6

All Halves, Quarters and lesser Pieces are to Pass in Proportion to the above Rates."—*Ibid.*

In his speech at the beginning of the fourth session, December 27, 1704, the Governor laid before the Assembly the communications he had received, as aforesaid, from the Lords of Trade, referring to them as follows:—

"... by the Last ships I received her Majestyes proclamation referring to the value of peices of 8^s & other money with Comands to publish the same in both the Governments in the most sollemn manner & to take Care that there be no further InConvenience in that matter, by which I hope we shall see the End of all our Complaints of clipping of money, & those rates being the same for all her Majestyes plantations, I have reason to Expect that our supply of money & Trade will well proceed in proportion with our Neighbours. . . ."—*Mass. Archives*, vol. 108, p. 24.

No legislative action, however, appears to have been taken upon the subject during that session.

During the fifth session the following resolve was passed by the Council:—

"Feb. 23, 1704–5. Resolved that Elisha Hutchinson, John Foster & John Walley Esq^{rs} be a Committee to be joined with such as shall be named by the Representatives to pre-

* Sir Isaac Newton, the great mathematician and philosopher.

pare & bring in the Draught of a Bill for Reforming & preventing the Debasing of the Money Currant within this province." — *Council Records, vol. VIII., p. 107.*

No record of the concurrence of the House in this resolve has been found; but, on the twenty-seventh of February, the following order by the Council appears of record:—

"Ordered that the Committees appointed to prepare & bring in the Draught of a Bill for Reforming & preventing the Debasing the Coin be instructed to consider & offer some thing to prevent the Counterfeiting of the Bills of Credit on this province." — *Ibid., p. 109.*

On the twenty-eighth it appears by the following entry that these committees reported:—

"The Committees appointed to prepare & bring in the Draught of a Bill to prevent the Debasing & for Reforming the Money Currant within this Province, As also to consider & offer some thing to prevent the Counterfeiting the Bills of Credit made their Report, Which was read & sent down to the House of Representatives." — *Ibid., p. 111.*

This report has not been found, but the following order undoubtedly shows its purport:—

"March 2, 1704-5. Ordered that a Bill be brought in against the Uttering by Tale the Curr^t Coins within this Province that are diminished; Viz,

That no Money shall pass by Tale but what is of due Weight as the Law & her Majesties Proclamation have provided.

Whosoever shall presume to offer any Money by Tale not of due Weight shall forfeit the same, One Moiety thereof to her Majesty for and towards the Support of the Government within this Province, and the other Moiety to the Informer,

That all light Money & Plate of Sterling Alloy shall pass & be good in Paym^{ts} as seven Shillings the Ounce & no more until further provision be made.

Which being sent down for Concurrence, was return'd from the Representatives with the Vote of that House thereupon, to refer the Consideration thereof to the next Session." — *Ibid., p. 112.*

At this stage the Legislature seems to have concluded that for the existing emergency a proclamation would serve better than an act, which would require more deliberate consideration than could be bestowed upon the subject during the session.

The action of the House upon the order which constitutes this chapter, and which originated in the Council, and the amendment by the Council as shown therein, took place on the third; and the Governor thereupon signified his consent.

The proclamation, the original draught of which remains on file and is copied here, was published * in the News-Letter, No. 47, which embraced the week beginning the fifth of March.

(Seal.) "By his Excellency Joseph Dudley Esq^r Captain General and Governour in Chief in and over Her Majesties Province of the Massachusetts Bay in New Engl^d—

A Proclamation—

Whereas Her Majesty by Her Royal Proclamation For Settling and ascertaining the current rates of Foreign Coins in Her Ma^{ty}s Colonies and Plantations in America, Given at Her Ma^{ty}s Castle at Windsor the Eighteenth day of June In the Third year of Her Reign, hath Published Her Royal Pleasure, That all foreign Coins be reduced to the same current rates within all Her Dominions in America according to their weight and Value and just proportion which Each Coin ought to have to the other, as in the sd Proclamation is particularly set forth and express'd. But forasmuch as, by the corrupt wicked practices of some ill men, the running Coins within this Province are so debased and Impaired by rounding and clipping (Notwithstanding the good and wholesome Laws made against the same) To the rendring of Her Ma^{ty}s Royal Intention impracticable, And will be of pernicious and fatal Consequence to Her Ma^{ty}s good Subjects. unless it be speedily prevented.—

For Remedy whereof.

I do, by and with the Advice and Consent of Her Ma^{ty}s Council and of the Representatives in General Court assembled, Declare and Order, That, from and after the Publication hereof; no moneys shall pass by Tale, but what is of due weight according to Her Ma^{ty}s Proclamation and the Laws of this Province; That all other light money and Plate of Sterling Alloy shall pass and be good in payments by the ounce Troy *pro rata*, until the End of the Session of this Court in May next, when further Consideration shall be had thereof.

And the Sherifffes of the several Countys are hereby Commanded to Publish this Proclamation within the same.

Given at the Council Chamber in Boston the Third day of March. 1704. In the Third year of the Reign of our Sovereign Lady Anne, by the Grace of God of England Scotland France and Ireland Queen, Defender of the Faith &c.

J DUDLEY

By Order of the Govern^r Council and Assembly.—

ISA^{ac} ADDINGTON Secy^r.—

God save the Queen." — *Mass. Archives, vol. 101, p. 287.*

See resolves, 1705-6, chapter 4 and note.

Chap. 130. This chapter is from council records, vol. VIII., p. 113. It has not been found in the archives.

The settlement authorized by this chapter was to close up the account of expenditures by the commissioners Brattle and Clarke, under resolve, chapter 24, *ante*, allowing three hundred pounds to complete the fortifications on Castle Island.

The account of the commissioners has not been found but the following entry in the

* In 1705, it was printed as a broadside, by "Bartholomew Green, Printer to His Excellency the GOVERNOUR and COUNCIL." — *Mass. Archives, vol. 101, p. 290.*

† Sic.

accounts of the province treasurer shows the amount of the balance they paid into the treasury:—

“The said Accomptant chargeth himselfe with what he received of
Thomas Brattle Esqr One of y^e Comission^{rs} for the Laying Out
the money Granted for the Fortifications at the Castle . . . 54 “ 11 “ 4.”
— *Mass. Archives*, vol. 122, p. 215.

1705-6.

Chap. 2. This chapter is from council records, vol. VIII., p. 122. It is preserved in archives, vol. 111, p. 78.

The following is the petition mentioned in the preamble to this chapter:—

“To his Excellency Joseph Dudley Esqr Captain General and Governor in Chief in & over her Majties Provinces of the massachusetts bay &c in New England— And To the Hon^{ble} her majties Council and House of Representatives now in General Court assembled in and for sd Province May 30th 1705.—/—

The Humble Petition of John Carey of Boston Brewer

Sheweth

That yor Petitioner did for Several Years keep the Green Dragon Tavern in Boston where he paid his Excise duely, till at last by misfortunes he was forced to quit the House, and get a Letter of License from his Creditors, since which he hath sett up a Brew honse. and yor petitioner when he left the sd House being in arrear for his Excise about Twelve pounds the Treasurer hath taken out a Writt against him, only upon request prosecution was stayed till yor Petitioner could represent his Case to this Hon^{ble} Great & General Assembly, now so it is (may it please yor Excellency & Honor^s) That yor petitioner cannot possibly raise so much Money, & therefore must go, to Prison & be ruin'd without yor favour to him.—

Yor Petitioner therefore humbly pray yor Excellency & Honor^s That he may pay the sd sum in Beer for the Countrys Use, which he is very willing to do, (and would in money, if he could, without troubling this Great & General Assembly with his Petition.)/

And yor Petitioner (as in dnty bound) shall ever pray &c

JOHN CAREY.” — *Mass.*

Archives, vol. 111, p. 78.

This petition was read, first, in the Council, on the sixth of June, when the following memorandum was made upon it:—

“Read and Accepted to be paid in Beer.

Sent down for concurrence.

ISA^h ADDINGTON Secy.” — *Ibid.*

The representatives passed it, in concurrence, on the same day, and it was consented to by the Governor.

Eventually the petitioner was gratified by a remission of the twelve pounds arrears of excise.*

The Green Dragon Tavern was kept by Samuel Tyley in 1704.†

Chap. 4. This chapter is from council records, vol. VIII., p. 120. It is preserved in archives, vol. 101, p. 292.

The doings of the authorities of the province in conformity to the queen's proclamation to prevent reducing the value of coin are shown in resolves, 1704-5, chapter 129 and note. The operation of the proclamation ordered in that chapter was limited to the end of the then current session. In his speech at the opening of the new Assembly, therefore, the Governor again brought the subject to the attention of the Legislature in the following paragraph:—

“Referring to the money, which by her Majties Royal proclamation is set at a due value, as in all the other plantations, there, will need some penalties to be Anaexed to Secure all payments accordingly, and when the money is restored to a due weight every man will know the true value of what is bought & sold, & not till then.” — *Mass. Archives*, vol. 108, p. 28.

This was May 31, 1705, and on the next day the Council passed and sent to the House for concurrence the order containing the clauses given in the foot-note on page 118, *ante*. In the House, on the same day, it was read a first time, and again on the fifth, and on the seventh it was passed, in concurrence, with the amendments described in said foot-note and with the addition of the names of the House members of the committee. Their report was prepared the next day as follows:—

“That this Proclamation be revived and continued without Limitation

That the Treasurer and Receiver General of the Province, The Treasurers of the several Countys, Towns, and all Constables, Collectors and Subordinate Receivers under either of them.

All Judges Jnrors and publick Officers whatsoever be Commanded Strictly to Conform themselves accordingly. Saving all past particular Contracts.

That some skillful persons be appointed to calculate a Table of the due proportion of Coines and Silver of Sterling alloy by the Ounce Troy to the weight of a penny, and that Cops thereof be printed.

* See resolves, 1706-7, chapter 7.

† *Ibid.*, 1703-4, chapter 38, note. According to Shurtleff (*Topographical and Historical Description of Boston*, p. 612) Carey succeeded Hannah Bishop as keeper of the Green Dragon Tavern in October, 1697.

That some other Skillful person be appointed to make weights of brass of the ounce Troy to the least denomination with such Stamp* thereon as the Governor and Council shall direct.

All which is humbly Submitted by

ELISHA HUTCHINSON by order
of the Committee." — *Ibid.*,

vol. 101, p. 291.

This report was read in the Council on the ninth, and again on the eleventh, when it was "Pass'd an acceptance wth this Addition. viz!

Provided

That for all past bargains and Debts except by special Contract, If the Debter shall tender Satisfaction to his Creditor in y^e bills of Publick Credit on this Province, all process in the Law shall be stayed against every such Debter by the space of twelve months next coming and then proceed,"† and sent to the House for concurrence.

The report was written on the back of a printed copy of the proclamation, issued under resolves, 1704-5, chapter 129.

On the fourteenth, the House having sent up their vote disagreeing with the Council's acceptance of the report, "William Brown & Penn Townsend Esqrs were sent on a Message to the House to Inquire Whether the House excepted to the Whole of the said Report, or to some particular Article or Articles thereof & what."‡

The House seems to have rejected the proposal of the committee altogether, since, on the sixteenth, "A Message was sent by John Hathorne, Elisha Hutchinson, Sam^l Sewall & John Phillips Esqrs to the Representatives to debate the Matter with that House upon the Report of the Comm^{tes} referring to the Coin refused by that House, And to move their Reconsideration thereof."§

Upon this the House sent up a message by Captain Thomas Oliver and Captain Stephen French asking to have the report returned to them "that the House might reconsider the same," and their request was granted. On the twenty-ninth the report of the committee and the amendment proposed by the Council on the eleventh were recorded by the Secretary, but whether the vote of acceptance was renewed or not does not appear.

This seems to have been the conclusion of the matter, as the Assembly immediately adjourned, and no record of subsequent action has been found.

Dudley took occasion to report this action of the Assembly to the Lords of Trade in a letter, which, together with their reply, is printed in the notes to the acts of the year 1705-6.¶ The representation which the Lords of Trade made to the queen upon Dudley's report is as follows:—

"To the Queen's most Excellent Majesty

May it please Your Majesty

... And whereas We have sometime since humbly represented to your Majesty the rectifying & settling the value of Coins in all Your Maj^{ty}s Plantations in America, Whereupon Your Maj^{ty} was pleased to issue your Royal Proclamation, We are informed by Coll Dudley that he has published the said Proclamation in obedience to Your Majesty's Commands in his Government of the Massachusetts Bay, and did expect that the Council & Assembly there would proceed to enforce the same by adding just & severe penalties to any person offering Clipp^d money or other light money by Tale, but could not obtain from the Assembly so much as the appointing a Committee to consider the same whereby the People as Coll Dudley conceives will be emboldened to use their late indirect way of payments to the great detriment of trade in general and prejudice of the other Plantations under Your Majesty's immediate Government who are willing to comply with Your Royal Commands therein.

Whitehall.

Deer 20th 1705.

ROBT. CECIL.

PH. MEADOWS.

WM BLATHWAYT

JOHN POLLEXFEN

MAT. PRIOR." — *New*

England, Board of Trade," vol. 35, p. 66; in Public Record Office.

Chap. 5. This chapter is from archives, vol. 3, p. 411. It is recorded in council records, vol. VIII., p. 125.

This chapter was passed in answer to the following petition:—

"To his Excell^{ty} the Gov^r The Hon^{ble} The Councill & Representatives of her maj^{ty}s Province of y^e Massachusetts Bay in New England now convened in Gen^l Assembly

The Humble Petition of Dan^l Greenleaf in y^e name, & behalf, & at y^e Desire of y^e poor Inhabitants of y^e Isles of Shoales.

Sheweth That it hath pleased Almighty God the last winter by the breaking in of y^e sea upon y^e Isles of Shoales to dispoile y^e s^d Inhabitants of almost y^r whole substance, & means of subsistence; w^{hy} they are reduced to the last degree of Poverty, & utter insufficiency to support, & uphold, y^e ministry among y^m who have hitherto encouraged y^t good work according to y^r Capacity with cheerfulness & without regret or complaining.

That y^e s^d Inhabitants are very desirous to enjoy the Gospel, & means of y^r salvation still amongst y^m & would as heretofore y^r have done maintain & encourage any serv^t of y^r lord whom he should please to incline to come over & help y^m without asking y^e help of y^e province, if y^e unhappiness before exprest had not befallen y^m But by reason of y^r Inability y^e s^d Inhabitants are under a necessity of addressing yor^{ty} Excell^{ty} & y^e Hon^{ble} Court for help & relief.

* *Sic*: but "those Stamps," as recorded by the Secretary in the legislative journals of the Council. — Vol. VIII., p. 143.

† Mass. Archives, vol. 101, p. 291.

‡ Council Records, vol. VIII., p. 129.

§ *Ibid.*, p. 132.

¶ Province Laws, vol. I., p. 579.

Wherefore yor humble petitioner in y^e name of y^e s^d inhabitants humbly beseeches, yor Excel^{ty} & y^e great & Hon^{ble} Court to take into yor pious Consideration y^e state of y^e s^d poor Inhabitants & make such suitable provision, & grant such supply as that they may yet enjoy y^e Gospel among ym — And yor Humble Petitioner with y^e s^d Inhabitants of y^e Isles of Shoals as in duty bound shall ever pray y^t yor Excel^{ty} & y^e Hon^{ble} Court may be so directed & assisted by God in all your undertakings as y^t all may be done to his Glory &c." — *Mass. Archives, vol. 3, p. 411.*

This petition was presented to the Council by the Rev. Daniel Greenleaf (H. C. 1699), who was subsequently the minister of Yarmouth, on Cape Cod, but at that time was officiating at the Isles of Shoals. It was read June 6, 1705, and sent to the House, where, on the same day, it was read, and on the eighth the resolve which constitutes this chapter was passed and sent to the Council for concurrence. It was concurred in on the same day, and consented to by the Governor.

The following is the order in the executive records of the council for the payment of the amount granted by this chapter: —

"March 8, 1705-6. Pursuant to a Resolve pass'd by the General Assembly at their Session in May last, that there be allowed and paid out of the publick Treasury of this Province, the sum of Fourteen pounds towards the support of the Minister at the Isles of Shoals for this present year if the Province of New Hampshire pay the sum of six pounds at least to that use.

His Excellency acquainting the Council, that the Government of New Hampshire * had granted six pounds for that use.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of fourteen pounds to Mr Daniel Greenleaf present Minister of the s^d Isles of Shoals." — *Vol. 4, p. 268.*

The province treasurer's account † shows that the allowance granted by this chapter was paid.

Chap. 7. This chapter is from council records, vol. VIII., p. 127, and archives, vol. 121, p. 124.

The following is the petition mentioned in the preamble to this chapter: —

"To his Excellency Joseph Dudley Esq^r, Capt General and Governor in Chief in and over her Maj^{ties} provinces of the Massachusetts Bay & c in New-England To the Hon^{ble} her Maj^{ties} Council and House of Representatives now in General Court convened in and for said Province — May 30th 1705. —

The Humble Petition of Arthur Beal

Sheweth.

That yor Poor Petitioner is one of the Ferry-men at Yorke and now in this time of Warr there are very few Passengers, indeed almost none at all who Travel that way, besides the Soldiers Employed in her Maj^{ties} Service, which by Law are to be Transported ferryage-free, which may be no great prejudice to those ferrymen which are not exposed, but as to those ferrymen which are in frontier places, and especially this at Yorke Yor Poor Petitioner humbly hopes yor Excellency & Honor^s will please to Consider the great hardship they lye under yor poor Petitioner being obliged to maintain a Boat & give his Attendance, tho he have no other business but what is upon the public account; an account of what service he has done he has sent by Capt Bean, and to Capt Gooch but never had any allowance, which if it be not granted to him he cannot possibly Subsist.

Yor Petitioner Therefore humbly prays yor Excellency and Honor^s to take the premisses into yor pious & Charitable Consideration, and to grant him such allowance for his past, and future service as to yor Excellency & Honor^s in yor wisdom & Justice shall seem meet.

And yor Petitioner (as in duty bound) shall pray &c

ARTHUR BEAL." — *Mass.*

Archives, vol. 121, p. 123.

This petition was read in the House on the eighth of June, and on the ninth the resolve which constitutes this chapter was passed and sent up for concurrence. The final paragraph of the chapter shows the action of the Council and the date of their vote; it also shows why the payment of the allowance is not to be found in the treasurer's account as made to Beal directly — it being treated as a military charge, and settled in the Commissary General's accounts.

* "Province of New Hampshire.

At a Council and General Assembly held at Portsmouth by adjt on the 17th day of December, 3 o'clock, Post meridiem, anno Domini 1705.

Present,

His Excellency Joseph Dudley, Esq., Governor, &c.,	
Peter Collin, } Esqrs.	George Jaffrey, } Esrs.
Robert Elliott, }	Sam ^l Penballow, }
Henry Dow, Esq.	

The following vote was sent up to this Board by the House of Representatives, in hæc verba sequen:

The Representatives being informed that the General Assembly of the Massachusetts have given to Mr. Daniel Greenleaf, minister of the Isle of Shoals, fourteen pounds, provided this Province pay six pounds more for his support,

Voted, that the Treasurer pay six pounds to Mr. Greenleaf for his encouragement in the ministry at Starr Island.

17th Dec., 1705.

Per Sam^l Keals, Clerk.

Eodem die. Consented to by the Council.

Thom. Phipps, Clerk of the Council." — *Pro-*

vincial Papers of New Hampshire, vol. III., p. 319.

† *Mass. Archives, vol. 122, p. 253.*

Chap. 8. This chapter is from council records, vol. VIII., p. 127. It is preserved in archives, vol. 62, p. 493.

The maintenance of a passage by water across Cape Ann by way of Squam River was very early a matter of public interest. The following ordinances seem to have been passed before any action upon the subject was taken by the town:—

"March 13, 1638-9, Mr Endeccott was willed to send 3 to view Cape Ann, whethr it may not bee cut thorow, & to certify how they find it." — *Mass. Colony Records, vol. 1, p. 253.*

"Dec. 10, 1641. It is ordered, that they cut the beach betwene Cape Ann & Anisquam shall have liberty to take sufficient toale as the Court shall thinke meete for one & twentye yeares. Alt: 1612" — *Ibid., p. 345.*

On the twenty-sixth of July, 1643, the Rev. Richard Blinman,* the first minister of Gloucester, who owned land near the place most convenient to be cut through, was, by vote of the town, granted the right to "cut the beach through, and to maintaine it and hath given him three Aceers of upland hee is to have the benefit of it himselfe and his for ever givinge the Inhabitantes of the Towne free passage."†

From Blinman the right passed by conveyance to William Stevens,‡ the famous ship-builder, whose daughter Mary became the wife of John Coit, junior, and the mother of Nathaniel, whose name appears in the papers hereafter printed. Nathaniel Coit was not only thus interested in the estate of his grandfather Stevens, but, by marrying the widow of his cousin, Lieutenant William Stevens, he bore the relation of stepfather to the minor children of William, who claimed the cut by inheritance both from the father and grandfather.

The cut having become obstructed by the washing in of sand and shingle during recent storms, the inhabitants of the town, who, by the terms of the original grant, were entitled to free passage through it, met as early as June 20, 1704, and passed the following vote:—

"Voted. That the selectmen or the maior part of them are desired and fully Impowred in the towns behalf to petition ye quarter sessions that the cut may be opened it being now so filled up that vessels cannot pass and ye parson that Lays clame to the propriety of it refusing to clear or open the same." — *Gloucester Town Records, vol. 2, p. 124.*

No action of the Court of Sessions upon this matter has been discovered. On the other hand it would seem that about this time there were some negotiations between Coit and the representatives of the town for keeping the passage open, and these being only tentative, and the cut still remaining impassable, the inhabitants met again in town meeting on the twenty-fifth of December to establish the rate of commutation of the tolls to be demanded by and paid to Coit. The following is a contemporaneous certified copy of the doings at this meeting:—

"Att a towne meeting of the Inhabetants of glocester december ye 25th 1704

Voted that wheras the Inhabitants of this towne of glocester reserued the priuiledge of free passage when they granted the Liberty to Mr Richard blynman to cutt the beach thorow where the cutt now is and there was noe way provided for the maintaning the bridge ouer said Cutt on which is the Countrey road nor for turning the said bridge after any vessell or vessells sloops or shallops that pas thorow the same It is now Agreed betwene the towne and Capt nathanaell Coit who now Claimes the propriety of said Cutt by his marriage with the widdow and relect of Mr William Stevens Late of said glocester deceased as followeth. Viz that enery sloop shallop or other vessell that the master belongs to this towne of glocester that makes use of said Cutt to pass thorow the same shall Annually pay to the said Coit or his ordar the sum of seven shillings p year for his Looking after the bridge to secure the road way and keeping the said Cutt pasable and in good order for vessells to pass thorow so Longe as it is in his said Coits Custodey or vnder his Improuement which said sum of seven shillings shall be paid by the master of sd sloop shallope or other vesselle att or before the twentyeth day of July annually yearely and Enery yeare

Copia vera

THOMAS RIGGS

town Cler for

Gloucester." — *Mass.*

Archives, vol. 62, p. 496.

This was a recession by the inhabitants from the position they had taken less than eight months before in the following vote, in which they virtually transferred the management of the draw from Coit to the public, and, in place of tolls or equivalent perquisites, gave him only the amount of the penalty to be recovered from any person failing to replace the draw after using it:—

"Att a towne meeting held in glocester may the 15th 1704 an act past at said meeting by the Inhabetants then present That whatever person or persons that passeth through the cut and shall leave the bridg open and shall not turn the bridge over the cut again every such parson or persons shall pay as a pnce to ye propreitor of sd cut six shillings in money fr every time they shall leave the sd bridg and do not turn it over the cut again the said money to be recovered by due proses of Law." — *Gloucester Town Records, vol. 2, p. 120.*

The vote of the twenty-fifth of December, in which it is alleged that Coit assented to the rate of toll proposed, although it covered the matter of managing the draw and of keeping the cut passable after it had once been cleared, did not expressly provide for defraying

* He wrote his name Blinman, but it is variously spelled by others Blynman, Blindman, Blithman, etc.

† Town Records, and Babson's History of Gloucester, p. 7.

‡ By the following entry in the records of the County Court for Essex ("9 mo. 1659") it would seem that Stevens was charged with failing to comply with the conditions upon which the original grant was made:—

"Mr William Steeuens being p'sented, for not making a bridg ouer the Cutt at Gloster: the Court doe respitt y^e same untill Salem Court next, & till then haue liberty to make the bridge, and yf not made by that time, then to appeare to answer to his said p'sentment."

the cost of the work of clearing out and restoring it in the first instance, which was so great and uncertain an undertaking that the town had shrunk from assuming it under the circumstances. The minors in whose right Coit was acting would not be bound by the engagements of their friends or guardians to do a work not authorized by law nor by the decree of a proper tribunal, and, very naturally, Coit was not inclined to assume the risk on his own responsibility. He claimed, moreover, that the circumstances existing at the time of the original grant had so far changed that he was not obliged to attend to, and maintain, the drawbridge over the widened channel without adequate additional compensation.

The expense of clearing the cut was greatly increased by the storm* of January 15, 1704-5, which enlarged the obstructive mass of sand and shingle.

The state of the controversy between Coit and the town at the time of the assembling of the General Court this year is shown in the papers which follow, beginning with the vote of the town at the March meeting, 1704-5; viz.,—

"Att a town meeting in glocester March 19th 1704/5 voated that there shall be a comittiey chossen to act in the towne behalf to look after and take care that ye cut so called be opened and cleared and mad pasable for vessels to goe thorow as formerly they have done as soon as may be convenient Capt nathaniel Coit who now clames the proprietye of sd cut by his marriage with the widdow and relect of Mr. William Stevens late of glo; deceased having been often solicited to cleare the same and doth not do it.

Voated in sd meeting that the town makes choice of Capt. Joseph Allen Mr. John Newman and — James Davis to be a comittiey to act in the towne behalf in addressing ye generall court that they would be pleased to grant the town Liberty to clear sd cutt and the Income or benefit of the same to be for the towne use or els that Capt. Coit may be obliged to cleare and maintain the same.

Voated that the towne grants Liberty to ye comittiey to agree with Capt Coit for the clearing sd cutt in case he will comply with them upon the propositions that were made formerly december ye 25 1704 Last past.

Voated that there shall be no ship timber masts yards &c nor any other timber sold of the towne common Land on the easterly side of annisquam river that comes up to ye cutt to be transported or disposed of out of the towne." — *Ibid.*, p. 135.

The following is the petition or complaint presented by the committee chosen by the inhabitants; viz.,—

"To his Excellency Joseph Dudley Esqr Cap^t generall and Governor in cheife in & over her maj^{ties} province of the Massachusetts bay in New England. & the honor^{ble} Council & Representatives convened in generall court att Boston May the 30th 1705 — — —

The humble address & petition of us whos names are hear unto subscribed a comittiey for the towne of Glocester. in behalf of sd towne Humbly sheweth that wheras the Inhabitants of said Glocester did in the yeare 1643. grant liberty to mr Richard Blinman to cutt the beach thorow & maintain it where the cutt now is, and had land given him for the doing of it, & was to have the benefitt of it to him & his allowing the inhabitants free passage which the said mr Blinman & his successors have enjoyed ever since. & the benefitt of the same has bin very considerable, to them: and the Convenience of havinge said cutt or passage kept open for vessells to pass thorow to & from the Eastward has bin found to be of considerable advantage as well as great safetye not only to or selves but also to the publike in that it not only shortens the way many leagues but prevents the hazard and danger of going round the Cape which is very hazardous for small vessells Especially in the spring & fall of the yeare and which said Cutt or passage for want of being kept & maintained in good & sufficient repaire. is now by stormes wholly filled up & has bin of little or noe use for above thes twelve months last past which has bin Considerable damage not only to or towne but also to the publike In that many times vessells that are bound to & from the Eastward are forced to wait a week or more before they can have an oportunitie of wind & weather to goe round the cape, which if the said Cutt or passage were cleare they might pass almost att any time, but we having bin loath to trouble yor hon^{rs} in this matter have often solisited Cap^t Nathaniel Coit who now claimes or challenges the proprietye of said cutt or passage by his marriage with the widdow and relect of mr William Stevens late of said glocester deceased in right of said mr Blinman that he would open & cleare the said Cutt or passage or resine & surrender the same up to the towne that they might doe it, but he refuses to comply with either which forces us to address yor hon^{rs} for a settlement of the same, and we doe in behalf of or said towne humbly request the favor of yor hon^{rs} that you will pleas so farr to favor the matter as to grant us a speedey hearing of the case there being a great deale of worke to be don & now is the most fitt & proper season of the yeare for the doing of the same, and we doubt not but that yor hon^{rs} upon the hearing of the case will se Just caus and reason that the said cutt or passage be resined up to the towne for ther use or that sd Cap^t Coit be forthwith obliged to cleare & maintain the same so long as it remains in his custody, & that if it be the right of the heires of said mr Stevens when they come of age that they be obliged to maintain the same in Either of which ways we doubt not but the matter will be effected and we shall ever be obliged to pray as in duty bound & subscribe or selves in behalf of or said towne yor hon^{rs} poor petition^{rs} & humble servants —

June 1: 1705.

JOHN NEWMAN }
JOSEPH ALLIN } Comittiey for
JAMES DAVIS } Glocester." — *Mass.*

Archives, vol. 62, p. 492.

* "*Salem, Jan. 20.* The Weather has been so Extream, there is no Travelling. The great Tide on Monday 15th Instant was here at least 14 inches higher than has been known in 20 years past; & much damage done in this Town, at *Marblehead & Manchester*. The Channel that was cut for the passage of Vessels out of the Harbour of *Glocester* into *Ipswich Bay*, to save going about the Cape, is quite filled up. We have had no body from *Boston* since, that can give an account of your damage: but doubt it is considerable." — *Boston News-Letter*, No. 43. February 5 to 12, 1704-5.

This petition seems to have been first read in the House on the twelfth, when the following proceedings ensued :—

“In the House of Representatives June 12: 1705

In Answer to the Petition on the other side.

Ordered That, the Heires of Mr Richard Blinman by themselves, or others lawfully Impowered, be notified to Appear, at this Court on friday the fifteenth instant, to make answer to this Petition, and upon Neglect, or Refusall, the matter being of such Concern, That the sd Ctt be opened, Cleansed, and made passable, as formerly, by and at the proper Cost & Charge of the Heires, or Assignes, of sd Blinman, by the first Day of August next, and to Receive the benefits. & upon Refusall or Neglect of the Persons concern'd that then the said Town, as a Town, do forthwith Open, Cleanse, and make passable said Ctt, and so Continue, to keep it passable, and to receive the benefit thereof, notwithstanding any Contract to the contrary.

Sent up for Concurrence.

THOMAS OAKES Speaker

June. 13^o 1705. Read in Council, and Voted a concurrence for a hearing and that persons be notified.

Is^t ANDINGTON Secy.—

Agreed.”—*Ibid.*, p. 493.

For further proceedings on this subject see chapter 30, *post*, and note.

Chap. 11. This chapter is from archives, vol. 71, p. 135. It is recorded in council records, vol. VIII., p. 130.

Benjamin Church of Hadley is not to be confounded with Colonel Benjamin Church of Little Compton and Bristol. The former was the grandson of Richard and son of Samuel, who came to Hadley from Connecticut.

The attack on Deerfield, in which he received the wound for his losses on account of which allowance was made by this chapter, is described in the note to resolves, 1701-5, chapter 6.

The following is the petition upon which this chapter was founded :—

“To his Excellency Joseph Dudley Esq^r Capt Gen^l and Govern^r in Cheife in & over her Maj^{ty}s Province of y^e Masschusetts Bay & the Honorable Counsellars & Representatives

Benjamin Church of Hadley Haveing Rec^d a wound in my Foot in the fight at Derefeild febr 29 1703 In the healing of sd wound I was disabled for to work & Labor for the space or tyme of twenty five weeks & am weake in my Foot still Humbly Petition to yor Excellency & Honor^s for such an allowance for y^e Loss of my tyme afores^d as you may Judge meete & just it haveing beene a great hinderence to me & Loss in my Occations & affaires the Sum^r following I Entreate I may be considered as afores^d & for yor Excellency & Honor^s I shall Ever Pray. —

May 30 1705

BENJAMINE CHURCH.”—*Mass.*

Archives, vol. 71, p. 135.

The resolve upon this petition was passed in the House, concurred in by the Council and consented to by the Governor on the fifteenth of June.

The order in Council* for the payment of this allowance was passed July 9, 1705.

The payments† by the province treasurer to Benjamin Church and Samuel Church (chapter 12, *post*), and to Samuel Bartlett (chapter 21, *post*), were entered as one item.

Chap. 12. This chapter is from archives, vol. 71, p. 134. It is recorded in council records, vol. VIII., p. 130.

The following is the petition upon which the resolve which constitutes this chapter was passed :—

“To his Excellency Joseph Dudley Esq^r Capt Gen^l and Govern^r in Cheife in & Over her Maj^{ty}s Province of the Massachusets Bay & to this Honorable Counsellars & Representatives

Sam^l Church of Hadley Haveing Rec^d a Wound in my Arme in y^e fight at Derefeild febr 29 1703 In the healing of sd wound I was disabled for to work & Labor for the space or tyme of twelve weeks & am weak in my Arm still Humbly Petition to yor Excellency & Honor^s for such an allowance for y^e Loss of my tyme afores^d as you may Judge meete & just it haveing beene a great hinderence to me & Loss in my Occations and affaires the Sum^r following I Entreate I may be Considered as afores^d & for yor Honor^s I shall Ever pray

May 30 1705

SAMLL CHURCH.”—*Mass.*

Archives, vol. 71, p. 134.

This petition was read, first, in the House on the ninth of June, when it was probably referred to the appropriate committee, since the resolve was not passed until the fifteenth. On the same day it was concurred in by the Council and consented to by the Governor.

The order in Council‡ for the payment of this allowance was passed July 9, 1705. For the record of the payment by the province treasurer see the note to chapter 11, *ante*.

Chap. 13. This chapter is from council records, vol. VIII., p. 130. It is preserved in archives, vol. 71, p. 145.

This is the secret § resolution referred to in the note to private act, number nineteen. It was passed at the instance of Dndley to enable him, if he should find such a course unavoidable in his negotiations with the Governor-General of Canada for an exchange of

* Executive Records of the Council, vol. 4, p. 195.

† *Mass. Archives*, vol. 122, p. 256.

‡ Executive Records of the Council, vol. 4, p. 196.

§ See Dudley's Intimation, *post*, of the propriety of not “speaking of the same without doors,” in his request to the Council on the fourteenth of June.

prisoners, to recede from the position he had held respecting the responsibility of Baptiste* as an English subject, and not a prisoner of war owing allegiance to the king of France. Upon the return of the messengers sent to Canada it became evident that the exclusion of Baptiste from the list of eligible prisoners was the most important, if not the only, obstacle to a full exchange.

But the people of Massachusetts were firm in their conviction that Baptiste's only claim to the protection of France was a pretence, and founded upon his deliberate acts of treason against his fellow-subjects in New England, and that besides this treason he was guilty of piracy and murder; and they had been stirred with indignation by the suspicion that the provincial authorities in their treatment of prisoners had discriminated in his favor. This was one of the grievances formulated by the representatives, December 2, 1703.†

When, therefore, Courtemanche presented to Dudley his instructions‡ from Vaudrenil, making the release of Baptiste an indispensable condition to further progress towards a treaty, and declaring that this condition was an ultimatum, the Governor was not unwilling to have it understood that he considered the project of an exchange at an end.§ Secretly, however, he seems to have set about excogitating a new scheme for accomplishing his end, in such manner as to engage the Legislature to screen him from public censure. This could be done by obtaining from them an assurance that his authority should not be limited even in regard to the exchange of Baptiste, if that could not be avoided. The first step in this scheme, however, was to sound Courtemanche as to how far he would be willing to go in evading the letter of his instructions. The result of Dudley's inquiries and suggestions in this direction appears in the note to chapter 15, *post*.

What the details of the conferences between him and Courtemanche were has not been discovered. The first result, however, is shown in the following entry in the legislative journals of the Council:—

"June 14, 1705. His Excellency acquainted the Council with the Advance he had made in his Proposals to Mr Cortes-Manch Commissioner from Mr Vaudrenil Governour of Canada relating to the Exchange of the Prisoners on both Sides at present in the Hands of either Government, & Settling an Agreement for the Reddition of Prisoners that should be taken for the Future, And that the whole Affair stuck at Baptist, Weh the said Mousr Cortesmanch insisted on as a particular Article in his Instructions, & declined to do any Thing in that Affair without Baptist were included, And desired their Advice therein, And withal desired Elisha Hutchinson, Samuel Sewall, John Foster & Joseph Lynde Esqrs to communicate the same to the Representatives to have Consideration thereof by them selves without Speaking of the same without Doors." — *Vol. VIII., p. 128.*

On the next day the message of advice which constitutes this chapter was sent to the Council.

* For an account of Baptiste's capture and imprisonment, see, besides the note to the private act above referred to, note to resolves, 1703–4, chapter 27.

† Mass. Archives, vol. 70, p. 666. They requested that Baptiste "be removed into & kept in, ye Roome there formerly prepared for him," to which the Council made the following statement in reply:—

"Dec. 13, 1703. As to the Keeping of Battisse Prisoner at the Castle, the Hon^{ble} Thomas Povey Esq^r made answer, that he is kept in the same place, where he always has been." — *Executive Records of the Council, vol. 3, p. 499.*

‡ The following is a translation of these instructions from the "*Collection de Manuscrits Relatifs à l'Histoire de la Nouvelle-France*," printed by authority of the legislature of Quebec, 1884. The reference in the fifth paragraph to the murder of the Sieur Gourdeault's six men was to the conduct of Colonel Benjamin Church at Passamaquoddy. His version of the affair is given in the second volume of Doctor Dexter's edition of Church's History of the Eastern Expeditions, pp. 153–159.

§ Instruction to the Sieur de Courtemanche.

The Sieur de Courtemanche, captain of marines, will forthwith depart from this town with Mr. Livingstone, Mr. Sheldon, John Wells, and eight Frenchmen, to proceed as quickly as possible to Mr. Dudley, governor-general of Boston, to whom he will deliver the letter of the Sieur Marquis de Vaudreuil.

He will demand the return, to the Sieur de Brouillon, at Port Royal, of all French prisoners in New England and will give his word, on behalf of the Sieur Marquis de Vaudreuil, that, as soon as he shall be notified of their arrival by the Sieur de Brouillon, all the English prisoners who are in the hands of the French shall be sent away from Canada, being furnished with provisions necessary for their journey home.

The Sieur de Courtemanche will demand, unconditionally, the return of Baptiste, without which there will be no exchange.

He will demand sureties for the return of the French who were taken prisoners on the coasts of l'Acadie, and who were carried to old England and to Barbadoes.

He will demand justice for the murder of the Sieur Gourdeault's six men, who were killed after being granted quarter; and he will complain of the detention of the Sieur Allain (who went with a passport from the Sieur de Brouillon to make exchanges) which is contrary to law.

The Sieur de Courtemanche, having copies of the letters to Mr. Dudley, from the Sieur Marquis de Vaudreuil will read them, so as to conform to the meaning thereof in communicating the same to Mr. Dudley, in case any accident shall have happened to Mr. Hills and the two Frenchmen who are with him and Mr. Dudley shall not have received the other letters.

He will demand payment of the bills of exchange of Mr. Livingstone as well as of those of which Mr. Hills is the bearer and those which he carries himself.

The said Sieur de Courtemanche having expressed to Mr. Dudley the ultimate decision [*les dernières volontés*] of the Sieur Marquis de Vaudreuil, he will ask leave to return immediately, and will bring with him Mr. Hills, the two Dubois, and the men he took out with him; and if Mr. Dudley agrees to return all the French prisoners to Port Royal, he shall write to the Sieur de Brouillon or to whomsoever shall be in command in his absence (although the Marquis de Vaudreuil may have already written to him advising him of it) as soon as possible, and forward a list of the prisoners so sent.

For reclaiming all our prisoners the Sieur de Courtemanche will make use of the list of which he has a copy and will also seek information about them from our French who are at Boston." — *Vol. II., p. 432.*

§ See Livingston's letter to Wluthrop, June 20, 1705, in note to chapter 36, *post*.

Chap. 14. This chapter is from council records, vol. VIII., p. 130, and archives, vol. 105, p. 50.

The petition mentioned in the preamble to this chapter was as follows:—

“To his Excellency Joseph Dudley Esq^r Cap^t Gen^l and Govern^r in Chiefe in & Over this Province of the Massachusetts Bay & the Hon^oable Councill & Representatives

Sam^l Barnard of Hadley Humbly Petitioneth That was my Horse was taken on her Maj^{ty} Service to go Post to Boston with one Thomas Bettes who coming homeward on the Rhode was Killed & my horse & although I have had payd me fortie shillings out of the Publique Treasury yet that doth not Satisfy me, In as Much as the horse I Judged worth Eight pounds of Money w^{ch} he was taken from me as afores^d & some Considerable tyme before I payd down for him Seven pounds in Money for him besides the damages I Sustaine for want of the horse all which I Humbly p^{re}sent to yo^r Excellencys & Honor^s Consideration & to allowing what is justly my due & for yo^r Honor^s I shall Ever Pray &c

May 25: 1705.

SAM^l BARNARD.” — *Mass.*

Archives, vol. 105, p. 49.

Upon this petition the resolve which constitutes this chapter was passed on the ninth of June and sent to the Council for concurrence. On the fifteenth it was read and concurred in, and consented to by the Governor.

The forty shillings previously paid to Barnard were probably paid upon a debenture, and if so would not appear charged to him in the treasurer's account.

The order in Council* for the payment of the allowance granted by this chapter was passed July 9, 1705, and the province treasurer's account† shows that it was paid.

Hon. George Sheldon gives the following account of hostilities perpetrated near Hatfield by the enemy under the command of Beaucourt, in which he mentions the killing of “Battis”:—

“... While this army lay on our frontiers its spies and scouts filled the woods, hovered about the towns, and waylaid the roads. July 19th, Kindniss, a friendly Indian, was killed near Hatfield mill. The same day, upon tracks being discovered near this town, ‘Deacon [John] Sheldon with some others, went after ym, & came in sight of ym, & shot at ym, & y^e y^e at ye English at a great distance, & then past along on ye west side of ye town, & fir^d y^r guns in a Bravado, and went along up to ye Northward, & killed Thomas Russell, July 20, 1704.’ Russell was a Hadley soldier of eighteen, who ‘had rambled from the party he was with.’ About this time, Sergt. John Hawks was fired upon while riding to Hatfield, and wounded in the hand. July 29th, Thomas Battis, who had been sent post to Boston, was killed on his return, east of Hadley. . . .” ‡ — *History of Deerfield, etc., in Greenfield Gazette and Courier, No. 36.*

Chap. 15. This chapter is from council records, vol. VIII., p. 131. It has not been found in the archives.

For an account of des Chanfonrs mentioned in this chapter see the note to private act, number nineteen.

The proposal of Courtemanche, which, together with the concurrent advice of the two branches of the Legislature, constitutes this chapter, was the outcome of the advice of the representatives in chapter 13, *ante*, by which the Governor was assured of their willingness to cooperate in measures necessary for the liberation of the English captives held by the enemy, even if those measures involved the surrender of Baptiste. The articles of agreement as prepared by Dudley have not been found, but portions of them are retained in the articles substituted by Vaudreuil, and brought by Vetch and William Dudley upon their return from the second mission. These last are printed in the note to chapter 83, *post*.

That Courtemanche departed from the letter of his instructions is plain, and unless it be believed that he received other secret instructions permitting him to take this liberty it is difficult to understand the relation he bore to his principal, if the proceeding was allowed to pass uncondemned. The inclination to effect exchange upon a basis which would be acceptable to Dudley was possibly strengthened by the knowledge of the terms of a cartel recently agreed upon by the English governors of other colonies of England and France.

While Livingston and his companions were away on their mission, tidings were received that a general exchange of prisoners of war had been negotiated between the English government of the Leeward Islands and the French Governor of Martinique. The first report, and its confirmation, appeared as items of news in the News-Letters published between the twelfth and twenty-sixth of March, 1704-5, as follows:—

“The Cartell is settled between *Martinico* and the Leward Islands for man, but the Governour of *Barbadoes* would not settle it till he had Orders from *England*. Capt. Turell & Perkins both of this place are carried into *Martinico*. . . . Three days before *Balt* came away, there was a Flag of Truce sent to *Martinico* with 100 *French* men to be exchanged.” — *No. 47.*

“*Boston*, In our Number 47. We gave you an account of a Flag of Truce sent from the Leward Islands to *Martinico*, with 100 *French* Prisoners to be exchanged: And by *Norris* and *Cook* this week arrived from *Monterat*, we are acquainted, that there was an exchange made; several of our Prisoners came home with them, & the Flag of Truce was gone a second time to exchange all that belonged to the Leward Islands, or that was taken bound thither.” — *No. 49.*

* Executive Records of the Council, vol. 4, p. 196.

† *Mass. Archives*, vol. 122, p. 256.

‡ Judd, in his History of Hadley, p. 275, also calls Barnard's companion “Battis,” and says he was of Brookfield, probably on the authority of Rev. Nathan Fiske (*Historical Discourse*, 1775); but in Temple's History of North Brookfield, p. 526, may be seen an account of him and his family, wherein his name is given variously as Bettis, Bettys, Betties and Beetes. He was carrying despatches which were taken from him by the enemy and made use of by Vaudreuil. See note to resolves, 1704-5, chapter 71, p. 426.

Upon receiving official notification of the cartel, Dudley communicated the same to the Council. The following is the record of this communication and of the advice of the Council thereupon:—

"April 11, 1705. His Excellency Communicated to the Council a letter from the Hon^{ble} Col. John Johnson Commander in Chief of the Leeward Careeby Islands, and a Cartel or Agreement made betwixt Col^e Edward Byam of Her Majty's Council of Antegua depnted and sent to Martineco by the s^d Col^e Johnson and Mons^r Mithon one of the French Kings Council, Commissary of the Marine and chief Director and delegated for the Intendency of the General Government of the French Islands in America, bearing date the sixth of February 1704/5. new stile for the restitution of prisoners on both sides, depending on each Government.

The second and Third articles whereof are in *hæc verba*, viz.

That all the English who are at present in Martinique, and who shall be hereafter taken from any vessel, be they Privateers or Merchant-men, and brought into this Island, or other the French Windward Islands, whither they be departing from or coming into the Government of Antigua, and the rest of the Leeward Islands shall be directly sent to the Island of Antigua, without being sent first to any other place without having regard to the quantity or quality, which shall be observed, so there be twenty five in number without being detained more than ten days and twenty days when a lesser number,

If in case some French Prisoners have been taken, & sent by the Government of Antigua to New-England, Col^e Byam gives his Parole of honour to inquire after them, to the end they may be sent to Martinique.

Advised. That his Excellency order an Advertisment of the s^d two articles to be inserted in the publick News Letter, withall directing and requiring all Commanders of Privateers or Merchant Vessels that have or shall import any French prisoners taken in the West Indies into the Provinces of the Massachusetts Bay or New Hampshire respectively, that they immediately render all such prisoners to his Excellency, that he may give the necessary orders concerning them accordingly." — *Executive Records of the Council*, vol. 4, p. 164.

Agreeably to the above advice the following advertisement had appeared in the News-Letter for the week ending the sixteenth of April:—

"Advertisements.

A Cartel has lately been Settled betwixt Her Majesties Government of the Leeward Careeby Islands, and the French Government of Martinique, for the Restitution of Prisoners on both sides depending on each Government.

That all the English who are at present in Martinique, & who shall be hereafter taken from any Vessels, be they Privateers or Merchant men, and brought into this Island, or other the French Windward Islands, whither they be departing from or coming into the Government of Antigua and the rest of the Leeward Islands, shall be directly sent to the Island of Antigua, without being sent first to any other place, without having regard to the Quantity or Quality; which shall be observed; so there be 25 in number, without being detained more than 10 days, and 20 days when a lesser number.

If in case some French Prisoners have been taken and sent by the Government of Antigua to New-England, Colonel Byam gives his Parol of Honour to enquire after them, To the end they may be sent to Martinique.

And His Excellency our Governour does Direct and Require all Commanders of Privateers or Merchant Vessels that Have or shall Import and bring any French Prisoners taken in the West-Indies, into the Provinces of the Massachusetts-Bay or New-Hampshire respectively under his Command, That they immediately render all such Prisoners to His Excellency, that he may give the necessary Orders concerning them accordingly." — No. 52.

Exchanges were being made* under this cartel while Courtemanche was in Boston, and reports were also coming in of the escape† of English prisoners from Canada.

Dudley and de Brouillon, for their respective governments, had anticipated the course of these governors of the West-India Islands. In August, 1703, eight days after he had proclaimed war against the Pennecooks and the eastern Indians, the former had first essayed to carry out an agreement made with the latter previous to the declaration, by ordering to be sent to Port Royal some of the French prisoners of war at Boston. ‡ By this agreement an exchange of all prisoners on both sides, with the exception of Baptiste, was contemplated; and the exchange was still continuing while the negotiations with Quebec were pending. It was an agreement similar to this that Dudley had proposed to Vaudrenil in his letter§ of August 21, 1704.

With a knowledge of these facts, doubtless presented to him in the most favorable light, although ignorant of the secret vote of advice of the representatives, Courtemanche seems to have found no insuperable obstacle in his instructions to the ratification, provisionally, and in the manner he proposed, of the terms set forth in this chapter. The acceptance of his proposal by the General Court, by enabling Courtemanche to liberate and take with him to Canada the *Sieur des Chaufour*s, undoubtedly increased the good feeling engendered by closer intercourse between the representatives of the two govern-

* "Philadelphia, June 22. . . . Yesterday Capt. Taylor arrived in a Sloop in 22 day from Antigua, who about 3 weeks since went a Flagg of Truce for *Martineco*, carried with him 64 French Prisoners, and brought back 75 English, besides some concealed which broke Goal . . ." — *Boston News-Letter*, No. 63.

† "Boston, Last week 4 of our English Prisoners at Mont-Real, viz. Joseph Pettis, John Nimes, Thomas Baker & Martin Kelluck all of West-Hampshire, made their Escape from thence, and came in to Northampton, being 26 days on their March, who were so put to it for Provisions by the way, that they were forced to eat Rattle Snakes." — *Ibid.*, No. 61. June 11 to 18, 1705.

‡ See note to resolves, 1703-4, chapter 53. Dudley seems to have done his part to effect the proposed exchange, although Vaudrenil alleged that de Brouillon complained to him that for seventeen English prisoners sent from Port Royal only ten French prisoners were returned by Dudley. See letter from Vaudrenil to Dudley March 26, 1705, in the note to chapter 36, *post*.

§ See note to chapter 36, *post*.

ments, but it is hardly credible that either side considered the proposal a finality or looked upon it as serving any other purpose than, by misleading the uninitiated into coöperating in the scheme, to secure favors to certain individuals, and to prolong the negotiations. Indeed the concluding words afford opportunity for controversy as to the event which should determine the beginning of "the dispatch of the prisoners from Canada;" that is, whether the exchange should proceed immediately after notice of Courtemanche's signing the tentative treaty or after Vandrenil had signified his assent to the articles.

See, further, chapters 51, 75 and 83.

Chap. 16. This chapter is from council records, vol. VIII., p. 131. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed July 9, 1705, and the province treasurer's account† shows that it was paid.

Chap. 17. This chapter is from council records, vol. VIII., p. 131, and archives, vol. 71, p. 144.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esq; Cap; Generl; and Governr; in Chief in and over her Majties province of the Massachussets bay in New England and To the Honble the Council and House of Representatives now in General Court Assembled in & for sd Province May 30th 1705.—/

The Humble Petition of Lieut; Colo; Benjamin Church Cap; of the Company of the Town of Dartmouth.

Sheweth

That when the present Warr first broke out yor Petitioner received an order from Colo; Byfield to raise six men of his Company in Dartmouth aforesd and to meet him with them at Taunton, whereupon yor Petitioner forthwith sent an order to the Ensign to notify six quarter Listed men, and bring them along with him to Taunton aforesd. where yor Petitioner met him himself according to Colo; Byfields order. but the sd Ensign brought not one man along with him, they all refusing to come, tho warned & notified as the Law directs. only the sd Ensign brought five pounds from one man to hire a man for him and the sd Colo; Byfield being very urgent & Pressing to have the men raised immediately, yor petitioner being likewise busied in hiring men, & having agreed with two men for six pounds apiece, Colo; Byfield said he (meaning yor Petitioner) need not stand so hard with the men for there was an additional Law which made it fifteen pounds fine for every man who was Listed & did not appear being duely Warned &c whereupon the men fell back and would not go under Ten pounds a man; which yor Petitioner was forced to comply with and accordingly hired five men, and paid them forty shills apiece in hand, and gave them notes to pay them Eight pounds apiece more, which yor Petitioner has since paid in money.—/

Now So it is, (May it please this great and General Assembly) That yor Petitioner thinking to reimburse himself prosecuted three of the Delinquents one of whom made his Escape out of the Custody of the Officer, when He was taken in Execution, and fled over the River to Road Island. the other two men being committed Prisoners to the Goal in Bristol staid there some time, and at length were sent for up to the Castle ‡ in Boston to work there, whither being come they (being Quakers) would neither work, nor do any other duty, but continued there living upon their own charges, and the contribution of friends, so long till his Excellency Saw cause to discharge them. And further yor Petitioner is Informed that the Law has provided no Relief for him in this Case; the fines being to be applied to Buy Arms &c for the Use of the Company. and yor petitioner having (besides the money he at first disbursed) been at great Charges and trouble in prosecuting those Three men as aforesd.

Yor Petitioner therefore humbly prays this great and General Assembly would please to take the premisses into their serious Consideration and grant an order that he may be reimbursed the Money he has laid out as aforesd. with his necessary costs and charges expended in this affair out of the Money arrising for fines in sd Company in Dartmouth

And yor Petitioner (as in duty bound shall ever pray &c.

BENJANⁿ CHURCH." — *Mass.*

Archives, vol. 71, p. 142.

The foregoing petition was presented in the House on the fifteenth of June and the order thereon which constitutes this chapter was immediately passed and sent to the Council for concurrence. On the next day it was concurred in, and consented to by the Governor.

Chap. 19. This chapter is from council records, vol. VIII., p. 133. It has not been found in the archives.

The account itself is preserved in archives, vol. 122, pp. 209-236.

The executive records of the council contain the following entry:—

"Sept. 25, 1706. Mr Treasurer Taylor made oath to his accompts of the Treasury for the year 1704 and the year 1705. respectively. having been Inspected and approved by the General Assembly." — *Vol. 4, p. 321.*

Chap. 20. This chapter is from council records, vol. VIII., p. 134, and archives, vol. 31, p. 2.

* Executive Records of the Council, vol. 4, p. 195.

† *Mass. Archives*, vol. 122, p. 252.

‡ See Province Laws, 1704-5, chapter 3, § 2.

In the winter or spring of 1675-6 William Waldron* and Henry Lawton inveigled fifteen Indians "about Cape Sables,"† according to Hubbard, and perfidiously transported them to Fayal, where he sold them into slavery. Among these captives were the sagamore of the tribe and his squaw. This treacherous and inhuman treatment of the natives brought on the first of a series of armed conflicts with the Eastern Indians, in which the English settlements on the northern and eastern frontiers were repeatedly devastated, and which led to alliances between these savages and the French, ending in their virtual extermination.

The sagamore and his squaw were redeemed from captivity and brought back to New England, July 25, 1676, by Captain Joseph Nash, who was employed for that purpose by Captain Bernard Trott, the latter paying the price of redemption of the Indians and their subsistence and transportation, and defraying all the expenses of the voyage out and back of his servant Joseph Burrell, through whom negotiations for their release were conducted. This benevolent action, of great moment in allaying the resentment of the outraged savages at the eastward, was undertaken at the instance of Governor Leverett, and with the understanding that Trott should be fully requited from the public treasury. Not having received reimbursement of his expenses, Trott, in 1677,‡ presented to the board of councillors, or assistants, of the colony, the following petition:—

"To the Hon^{ble} Councill nowe sitting

The Humble Petition of Bernard Trott

Sheweth yt: on Request of the hon^d Governour In March Last hee did procure the freedom of a Couple of Indians wch Came from fayal In Joseph Nash the Twentieth fifth Day of July Last and Cost therē one hundred mil Res In Ready money for which is generallye allowed money for money & Amounts unto sixty two pounds tenn shillings & six pomsds ther passage and victuals all which makes Sixty Eight pounds tenn shillings; but If there bee but tenn shillings allowed for a milRea then Twenty five ꝑ C^{ts} Is Allowed for Disburseinge of Monye, nowe these may Informe your hon^{rs}, yt your Petitioner Is still without Satisfaction to his great disappointment, haueing bine With M^r. Hull Who sent him to m^r Dndly, Who gaue In Answer had noe order from your hon^{rs} to make Satisfaction, yor Petitioner haueing suffered sufficiently Last yeare by Selling his Wheate for y^e Countreyes Vse, stayeing a Whole month In y^e harbour with his Vessell full Loaden for Want of payment Which Was the ouerthrowe of his Voyage nowe; see many

* Waldron, "now Resident in Boston," was indicted and tried before a Court of Assistants held at Boston March 6, 1676-7, for that, "by himself & his partner Henry Lanton as his order wth whom he left his Comission did unlawfully surprize & steal away Seventeen Indian^s men women & children & in y^e vessell Called the endeavour of Boston Carried & sent them to fyall."—*Records in the office of the clerk of S. J. C., Suffolk, p. 61.* Upon the written depositions of George and Richard Bucknell, who testified that at the time the Indians were kidnapped Waldron was at Damariscove, and therefore could not have been actually present and aiding in the business, the accused was acquitted.—*Suffolk Court Files.* During his incarceration previous to his indictment he applied to be speedily brought to trial and to be admitted to bail in the mean time, averring that (when the abduction took place) he was not further east than "Menheginne . . . which is not so farre Eastward by a hundred and sixty Leagues, as y^e place is, where y^e Indians was taken from." His request was refused.—*Mass. Archives, vol. 30, p. 273.* As the date of the refusal was August 24, 1676, it would seem that he was arrested soon after the alleged offence became known to the authorities.

John Houghton or Houghton, who writes his name "Harton," also of Boston, "Marriner," and John Earthy were arraigned at the same time with Waldron. The former was presented for man-stealing; for that he "being Instigated by the Divill did take into" his "vessell the endeavor [the Indians, as above described] & Carried them away to fyall & there were sold;"—and the latter was bailed to appear at the next Court of Assistants to "Answer wt shall be layd agt him" for his connection with this affair. John Glover, who was also concerned in the affair, he having sold "part of the produce" of the voyage, was discharged by proclamation, "none Appearing Against him;" but Houghton, though acquitted of man-stealing, was convicted as necessary to the crime, "he being ship master" of the Endeavor wherein the Indians "were received on board & carryed away to fyall," without objection on his part. For this he was sentenced "to pay a fine of twenty pounds," of which "tenn pounds" was subsequently abated by the Court.—*Records in the office of the clerk of S. J. C., Suffolk, pp. 61, 62.* He also presented a petition to the Governor and Council, November 20, 1676, praying to be admitted to bail, in which he describes himself as being of Boston and with a "wife and two Children," for whose support he asked to be allowed to pursue some employment, or at least to visit them "Twice a weeke" under sufficient recognizance for his appearance when called to answer.—*Mass. Archives, vol. 30, p. 227.*

† "There is an Injury of an higher Nature, mentioned as the Ground of their Quarrel with us, who live about *Pemauquit*, and *Kennibek*, which hapned the last Spring, viz. one *Laughton*, with another Person or more, who having obtained under the Hand of Major *Walderna*, a Warrant to seize any *Indians* Eastward, that had been Guilty of any Murder or Spoil done to the English in those Parts, did most perfidiously and wickedly entice some of the *Indians* about *Cape Sables* who never had been in the least Manner guilty of any Injury done to the English, aboard their Vessel, or else some other Way, and then carried them away to sell them for Slaves; which the *Indians* in those Parts look upon as an Injury done to themselves, and have alledged it to the Inhabitants of *Pemauquit*, as one of the principal Grounds of their present Quarrel: The Thing alledged is too true as to Matter of Fact, and the Persons that did it, were lately committed to Prison in Order to their further Tryal."—*Indian Wars, Drake's edition, vol. 11, p. 136.*

‡ "A Gentleman who at that Time lived at *Pemauquit*, a kind of Superintendent over the Affairs of that Place, considering the said *State* things were running into, laboured to obtain a Parly with the said Indians, or some of them, which after much Trouble and Cost, he did accomplish. . . ."—*Ibid., p. 149.*

"The Winter being now over, the fore-named Agent of *Pemauquit*, went to a Meeting of the *Indians* Eastward, to persuade them of the Cuntrys Willingness to continue a Peace with them. They seemed very joyfull therat, and in the Spring brought some Presents to confirm the Peace, and to that End also delivered up an *English* Captive Boy to those of *Kennibek*. But when the Summer came on, that the said *Indians* had Liberty to travel up and down the Country to visit their Friends as they used to do; they missed those their Friends who had in the Winter perfidiously been carryed away, and as is related, they fell into a Rage against the *English*, making Complaint thereof to the said Agent, Mr. *Earthy*, Mr. *Richard Oliver*, and others: They were told, Means should be used for bringing them back again, which had been so transported."—*Ibid., pp. 151, 152.*

† Apparently on the sixteenth of August.

Vessells Comeinge out of England with wheate before him W^{ch} was the Cause hee Lost above six hundred pounds

Therefore your Petition^r humblye requests the Hon^{ble} Council that they would bee pleased to order him Satisfaction monye for monye w^{ch} is the Vseal Custome, or the Exchange att ²⁵ 4th C^{ts} w^{ch} there passage, your Petition^r haueinge greate occasion of his monye to pay of his men & Vessell for Cannot put them of anye Longer Which If should Doe hee Will bee a greate sufferer by Itt

And your Petition^r shal Remayne, obliged to y^e Hon^{ble} Council

BERNARD TROTT." — *Mass.*

Archives, vol. 31, p. 5.

Upon this petition the Council passed an order which would seem not to have been communicated to Trott but a copy whereof is on file subscribed on the petition. It was certified by Major-General Daniel Gookin as follows:—

"In Answer to this petition: the counceill haue ordered the treasurer By y^r order Bearing date y^e 9th: 6: mo: last* to pay the petitioner 56^{li} the petitioner may apply himselfe to y^e Secretary for y^e copy of the order.

16th: of 6 mo 1677.

DANIEL GOOKIN P^r order." — *Ibid.*

After the lapse of twenty-six years, the debt still remaining unpaid, Trott applied to the Legislature of the province in the following petition:—

"To his Excelly Joseph Dudley Esq^r, Cap^t Gen^l and Governour in Cheif in & over Her Ma^{ty}s Province of the Massach^{ts} Bay in New England and to his Hon^{ble} Council & Representatives now Sitting in Boston the Third day of Aug^t 1703

The Humble Petition of Barnard Trott of Boston

Humbly Sheweth

That yor Pet^r Some time in the Year 1677 Petitioned the then Hon^d Governour John Leverett Esq^r & his Hon^{ble} Council, then Sitting in Boston for 62^{li} 10/ 6^d due to yor Pet^r for his Procureing two Indians their freedome from Fyall by the Order of the s^d Governour and for the s^d Indians Passage & victuals to Boston The s^d Governour & Council did then answer my s^d: Petition and Ordered the Treasurer then in Place to pay yor Pet^r 56^{li} Money Which Order Yor Pet^r never Received nor the s^d 56^{li} which, if yor Poor Pet^r had said Money it would be a great help to him now in his Poverty, who is forc'd to be troublesome to William Tayler Esq^r for his Maintainece

Therefore Yor Pet^r Humbly requests yor Excelly & Hon^{ble} Council to take his Poor Condition into Consideration, and y^t he may have an Order for his s^d money, Which he so disburst for s^d Indians w^{ch} Will be a great relieve to yor Poor Pet^r now in his Poverty and yor Poor Pet^r shall for Ever Pray &c. — *Ibid., vol. 30, p. 492.*

No action appears to have been taken upon this petition save that it was read in the Council November 8, 1703.

The next year Trott made formal application to Governor Dudley, as follows:—

"To his Excelly Joseph Dudley Esq^r Cap^t Gen^l and Govern^r in Chiefe, in and over her Ma^{ty}s Province of the Massach^{ts} Bay In New England In Boston October y^e Second 1704/
The Humble Petition of Barnard Trott of Boston/

Humbly Sheweth/

That yor Petition^r Some time in the Year 1677 Petitioned to y^e Hononrable Govern^r Jn^o Leverett Esq^r & the Hon^{ble} Council then Sitting in Boston for 62^{li} 10s: 6^d due to yor Petition^r for Redeeming two Indians, a Sacamore & his Squa Stollen away from y^e Eastward, by one Waldron; & 13 Indians more, & carried to Fyall and Sold for Slaves Which made the first Indian Warr, there in those parts, as The Hon^{ble} Gov^r told yor Petition^r Yor Petition^r sent his Servant Joseph Burrell t^h wth Joseph Nash who was hired who brought home y^e s^d two Indians according to order, The s^d Gov^r & Council did then Answer my Petition^r & Ordered y^e then Treasurer to pay me 56^{li} Money, Which Order yor Petition^r never Received nor y^e 56^{li} Which if I could Receive now, Would be a great help to me in my Poverty, Who is forced to relye upon Maj^r W^m Tayler Esq^r for his Reliefe, This Petition^r was presented to y^e Last Gen^l Court, but was Answered, that they had not seen Cap^t Hull y^e Treasurers Books, now yor Petition^r hath the Hon^d Sam^l Sewalls hand. & hath serched the Books, and find as I have declared, and yor Petition^r have suffered great Losses by the Countrey besides w^{ch} is too long to relate.:/

Therefore yor Petition^r Humbly Desireth Yor Excelly y^t you Would be pleased to be his Promoter to the Court & Council to That they Would be pleased to take yor Petition^r hard Condition into Consideration, That he may have an order for his Money Disburst for s^d Indians: Which Will be a great Reliefe to him in his Poverty & Old Age and Yor Excelly^s Petition^r shall for ever Pray &c.

for y^e Lords sake I begg y^e Excelly petty & Compassion one me." — *Ibid., vol. 31, p. 4.*

Though unable to relieve the petitioner without the concurrence of the Assembly, it is quite likely that the Governor, touched by this appeal or induced by another motive, suggested his applying again to the General Court, which he did in the following petition:—

"To his Excelly Joseph Dudley Esq^r, Gov^r in Chiefe in & over her Ma^{ty}s Province of

* This order was as follows, the list of initials in the left-hand margin standing for Daniel Gookin, Thomas Danforth, Edward Tyng, Thomas Clarke, Joseph Dudley:—

"Present.—

Govern^r

D. G.

T. D.

E. T.

T. C.

J. D.

And Ordered That the Secretary give order and warrant to the Treasurer to gather the 100th Fine of Sam: Lindell and pay. 56^{li} thereunto m^r Barnard Trott for the return of those Indians brought from Fayall —

A true Copy of the minute of Council as appears in the Booke. —

= Examln^r &c.

Is^t ADDINGTON Secy." — *Mass.*

Archives, vol. 31, p. 3.

† "Samuel Turell," in his petition presented the next session, q. v. post.

the Massathusets bay in New England, And to the Hon^{ble} Councell & Assembly now Sitting in Boston — October y^e 25th 1704.—
The Petition of Bernard Trott —

Humblly * sheweth

That sometime in the Yeare 1677. Yo^r Pet^r Petitioned to the Honrd Gov^r Jn^o Leverett Esq^r & the honrd Councill then sitting in Boston, for sixty two pounds ten shillings & Six pence, due to yo^r Pet^r for Redeeming two Indians. Viz^t a Sagamore & his Squaw Stollen away from the Eastward by one Waldron & 13 [†] Indians more, (which made the first Indian Warr in those parts) Carried to fly [al †] & sold for Slaues. As the hon^{ble} Gov^r told yo^r Pet^r. Then I yo^r Pet^r sent my Serv^t Samuel-Turell ‡ on that accompt upon Joseph Nash which he hired & brought home the said two Indians according to Order & Victualls to Boston —. The Said Gov^r & Councell did then Answer my Petition, and Ordered the Treasurer to pay me fifty six pounds-money, which Order yo^r Pet^r never Received nor the fifty six pounds, which if yo^r Pet^r had rec^d said money, it would have beene a great help to him, Es-pecia[lyly †] now in his Poverty who is forced to Relye upon Maj^r W^m Tailor Esq^r for his Releife

This Petition was presented but returned with this Answer the last Generall Court, that they had not seene Cap^t Hull the Treasurers Books, Yo^r Pet^r never Exchanged one penny with said Hull — I must owne I never Carried him the Court Order, Supposing that Major Gookin's hand p^r Order, had bene Sufficient; now I have the hon^{ble} Samuel Sewalls hand, that he hath Searched the Books, and finds as I have declared. Therefore yo^r Pet^r Craues pitty from yo^r hon^{rs} that have done so much for the Country as he hath done —

Gentlemen & fathers of the Province to Relate what you may see in 1675 Yo^r Pet^r went for wheat when none to be had for Bread for the Army, and brought home foure thousand bushells for the Country from Treceeras § one of the Portugall Islands, the Country had of him fifteen hundred bushells & of M^r W^m Tailor dec^d five hundred bushells, Then the Countrey Obliged yo^r Pet^r by his hand, to goe for more Wheat still in want. In the Yeare 1676 M^r Danforth & Maj^r Gookin made him gine his hand in Court to performe it, which he did, But for his first money he lay with his ship a month with twenty hands in pay, when paid he went for the Portugall Islands, and in a small time brought home 4300 Bushells of Wheate, Wines & linnen Cloth, when Arrived at Boston they tooke not one bushell from him, but left it upon his hands, whereupon yo^r Pet^r lost Eight hundred & Eleven pounds by the Countrey, as by a Petition may be seene, If he had gone for the Canary's would have made foure thousand pounds worth then twenty Shillings a Bushell, Besides yo^r Pet^r hath paid Custome for aboue 400 pipes of Wine upon his owne Acco^t, All this is not Considered, but now yo^r Petitioner as poore as Job, and no Releife from the Countrey, —

Yo^r Pet^r therefore humbly desires yo^r Excellency the hon^{ble} Councell & Assembly, to take his poore Condition into [†] Consideration, that he may have an Order for his money, w^{ch} [†] he so Disburst for said Indians; which will be a great releife to yo^r poore Pet^r now in his poverty —

And Yo^r petitioner shall ever pray &c. — *Ibid.*, p. 1.

With this petition, apparently, the former petitions were considered, and Trott filed the following certificate by Samuel Sewall, one of the Council, and son-in-law of John Hull, deceased, the former treasurer of the colony: —

S^r

"April 22, 1704

M^r Bernard Trott the bearer Desered me to Looke If any thing were paid him by Capp^t. Hull for his Redeeming Some In Indians * from faya! vpon Searching Doe not find his name In the S^d Booke of y^e Treasury who Am

S^r your humble Ser^t

To M^r Secretary Addington in Boston

SAMUEL SEWALL." — *Ibid.*, p. 3.

The above petition, and, apparently, the former petitions, except perhaps that of August, 1703, and the petition to Governor Dudley, October 2, 1704, were read in the House on the seventh of November, but no further action appears to have been taken upon either until the first session of the next Legislature, after the petitioner had again reminded the Assembly of his claim and his pressing necessities, thus: —

"To her Matys Hon^{ble} Councell and Representatives now met & sitting in Generall Assembly at Boston this 7th day of June 1705
Gentlemen

Your Poor Servant gives your Honours to understand, That in the Years 1703 and 1704 did give into the Generall Court then sitting two Petitions concerning a Debt due to him from the Countrey of 56 pounds which he paid for the Redemption of two Indians in Fyall, by the Order of John Leverett Esq^r then Gover^r in the Year 1677 to which Petitions I Refer, and to yo^r Honours Justice,

Who's humble Request is That you would be pleased to peruse his said Petitions, and returne him an Answer of them, and to Consider of his Condition, and how Long he hath been out of his Money. In what great want he is at p^{re}sent, And that yo^r Honours would be pleased to Order him his Money, which now in his Necessity will be a great Favour. and be very wellcome Gentlemen to Yo^r

Humble Servant and Poor requestant

BERNARD TROTT

Yo^r Requestant desires he may have his Papers out of the Court: and if he cannot have all his Money desirth part of it: at p^{re}sent." — *Ibid.*, p. 6.

This reminder appears to have been considered by the House on the sixteenth, that date being minuted in the margin by the clerk of the House. On the nineteenth, the resolve

* Sic.

† Manuscript mutilated.

‡ "Joseph Burrell" in his former petition, *ante*.

§ Sic: Terecela.

which constitutes this chapter was endorsed on the petition of October 25, 1704, passed, and sent to the Council for concurrence. It was concurred in on the same day, and consented to by the Governor.

The orders * for warrants to the province treasurer for the payment of the first four instalments were dated July 9, 1705, August 2, 1706, July 10, 1707, and July 16, 1708; and the payment of these is shown in his accounts.† The fifth and last instalment was never paid, Trotter having died in October, 1708.

Chap. 21. This chapter is from council records, vol. VIII., p. 134. It is preserved in archives, vol. 71, p. 123.

The petition upon which the vote was passed that constitutes this chapter was as follows:—

"To his Exely Joseph Dudley Esqr Capt general and governor in Cheife, in ovr her Maj^{ty}s province of the Masstchuset bay in New England: and the honnerable Counsel, and Representatives in general Court Assembled, this: 30: of May: 1705

The petition of Sam^l Bartlet of Northampton who in humble wise sheweth, that whereas your petitioner was upon her Maj^{ty}s sarviss upon the: 13: dey of May: 1704, and was then wovnded; and by the wovnd I did Endure a great deal of pain: and Lost my time and was disanabled from Labour untill the fift of August: next, for which Resons I desire that this Covrt would allow shuch, pention and gratuity, as in wisdom thy may think fitt;

further your petioner was upon her Maj^{ty}s sarvice some time the beginning of the Last winter, out upon the grand Scout toward West River and upon my Returning; by an unevitable providence my horse was drowned, which was worth five povnds ten shillings in money. this I Conclude that this honnered Court will Consider, and doe that which is equal and Jest in the matter: Levying of you unto devine protection, beseeching of yov for to Consider my Case, and in so doing your petioner shall for Ever pray: &c: and Remain yovr Humble Sarvant

Northampton: May: 24: 1705:
Archives, vol. 71, p. 122.

SAM^l BARTLET."—*Mass.*

To this petition was appended the following certificate:—

"That when the aforesaid Sam^l Bartlet was ovt upon the sd SCovrt and Lost his horse, he impressed in her maj^{ty}s sarviss

¶ mee: JOHN PARSONS: Capt."—*Ibid.*

On the eighth of June the following resolve on this petition was passed in the House and sent to the Council for concurrence:—

"Resolved That the Sum of Five Pounds, be Paid out of the publick Treasury as a full Allowance for Smart money, losse of Time, and for the losse of his horse, viz: two pounds for y^e horse, Loss of time & smart money three ponnds."—*Ibid.*, p. 123.

On the nineteenth the following vote was passed by the Council and appended to the resolve of the House:—

"Read and Concurr'd, onely for the Three pounds loss of time and Smart money. . —
Is^t ADDINGTON Secry."—*Ibid.*

To this the House "agreed" on the twenty-second, and it having first been consented to by the Governor, the Secretary recorded the vote as it appears in this chapter.

The order in Council for a warrant to the province treasurer for the allowance granted by this chapter was passed July 9, 1705. For the record of payment see the note to chapter 11, *ante*.

Chap. 24. This chapter is from council records, vol. VIII., p. 135. It has not been found in the archives.

The petition upon which the resolve which constitutes this chapter is founded has not been discovered.

The order in Council for the payment of this allowance is as follows:—

"Oct. 11, 1705. Pursuant to a Resolve pass'd by the General Assembly upon the Twentieth day of June past, that so much be allowed and paid out of the Publick Treasury to Matthew Carey Waiter at the Impost Office, as, with what he hath already received of James Russell Esqr Commissioner of Impost will amount to forty shillings ¶ month for his service from the 18th day of November last, unto the day of passing the said Resolve, which makes seven months and two days. And the said Commissioner having certified, that the said Matthew Carey has received of him nine pounds & four pence.

Advised and Consented. That a Warrant be made out to the Treasurer to pay to the said Matthew Carey, the sum of Five pounds, two shillings and four pence in full for his service aforesaid."—*Executive Records of the Council, vol. 4, p. 222.*

The province treasurer's account § shows a payment of £25 3s. 8d. to Matthew Carey and Thomas Sill. The amount of Sill's portion of this payment under chapter 95, *post* (£9 10s. 4d.), added to Carey's allowance of £10 16s. under the same chapter and his balance of £5 2s. 4d., makes a total of £25 8s. 8d. There was, therefore, a deficiency of five shillings in the payment.

Chap. 25. This chapter is from archives, vol. 71, p. 147. It is recorded in council records, vol. VIII., p. 135.

The resolve originated in the House on the twelfth of June, when it was passed and sent

* *Executive Records of the Council, vol. 4, pp. 196, 302, 433 and 602, respectively.*

† *Mass. Archives, vol. 122, pp. 257, 279, 310, and vol. 123, p. 30.*

‡ *Executive Records of the Council, vol. 4, p. 195.*

§ *Mass. Archives, vol. 122, p. 255.*

to the Council for concurrence. On the twenty-first it was read and concurred in, and consented to by the Governor.

The following order in Council for a warrant to the province treasurer to pay the allowance granted by this chapter shows the amount paid to Bane for the men in his company, as reported by the Commissary-General:—

"June 27, 1705. A Muster Roll of a Scont of Twelve men under the Command of Captⁿ Lewis Bane, containing an account of their pay and subsistence for six days service in May last, amounting to six pounds, eighteen shillings (whereof the s^d Bane's part by Order of the General Assembly is Forty shillings) Examined by Mr^r Commissary General, was presented—And

Advised and Consented. That a Warrant be made out thereon to the Treasurer to pay the s^d Captⁿ Bane the aforesaid sum of six pounds, eighteen shillings on behalfe of himselfe and men accordingly."—*Executive Records of the Council*, vol. 4, p. 188.

The province treasurer's account* shows that this amount was paid.

Chap. 26. This chapter is from council records, vol. VIII., p. 135. It is preserved in archives, vol. 71, p. 125.

From the date of the declaration of war† against the Pennecook and Eastern Indians, in August, 1703, the authorities of Massachusetts were on the lookout for more frequent and extensive hostile incursions from Canada. The French, already at war with the English, immediately became the open allies, as they had been all along the secret instigators, of the savages of Maine, who, though heretofore nominally loyal to Great Britain, had been on the best of terms with the French emissaries residing among them.

An intercepted letter,‡ written early in the spring of 1704, from Governor Vaudrenil, at Quebec, to de Brouillan, the governor of Acadia, gave to the authorities of New England information of the intention of the former to do his best "to ravage the English on the side of Boston." By this he indicated a purpose to avoid compromising the white inhabitants of New York and their Indian allies, with whom he deemed it politic to have no open rupture. The hostile relations between the New Englanders and their former savage allies at the eastward greatly facilitated his schemes for harassing, devastating or subjugating New England.

There were three grand trails or highways leading from Canada to Massachusetts, which could be travelled without disturbing the settlements of northern and eastern New York. Of these (neither of which was confined to narrow limits) the route most commonly taken had been by way of Norridgewalk, in Maine. The others were the same until they reached the Connecticut—by way of Lake Champlain and the Winoski, French or Onion River, thence across the mountains of Vermont and down the valley of one of the tributaries of the great river. Thence one course lay directly down the river, and the other from either of several points along the Connecticut valley across New Hampshire to and down the valley of the Merrimac and thence up the valley of the Nashaway or of the Concord.

Late in the winter of 1703-4 small parties of the enemy attacked the outlying northern settlements, particularly Exeter and Haverhill,§ killing or capturing the inhabitants, plundering their stores, and burning their houses and barns.

Some of these predatory savages were known to be of the Abenakis of Maine but others certainly came under the lead of Frenchmen from Canada.

Since King Philip's war until the attack on Deerfield the western frontiers had been comparatively free from molestation by the Canadians. The Mohegans being as friendly to Massachusetts as to their own white neighbors in Connecticut, and the Iroquois, under the lead of the Mohawks, or Maquas, being amenable to treaty obligations, the authorities of Massachusetts had been chiefly solicitous to maintain friendship with the Eastern Indians. Treaties and truces had been made or renewed with the leading eastern tribes, sometimes under humiliating circumstances, and involving great expense in maintaining forts occupied as, or to defend, trading-posts more or less unprofitable, or for the protection of white settlers against surprises by the treacherous savages.

By this policy of peace and nominal friendship invasion from Canada had been made so hazardous and expensive to the enemy that, even after friendly relations between Massachusetts and the eastern tribes ceased, there had been not only less effort to repel incursions on the western frontiers but offensive operations had been conducted according to the old custom by advancing on the eastern lines, and massing the provincial forces in Maine and New Hampshire.

Before the attack on Deerfield|| Colonel Partridge had expressed to Governor Winthrop of Connecticut his apprehension that a vigorous and close pursuit of the enemy in the eastern parts of the province would divert them to the western frontier. The expedition led soon afterwards, by Hertel de Ronville, against Deerfield, proved the sagacity of the veteran commander at Hatfield. At the approach of warm weather, preparations to repel the attacks of the enemy at the eastward were so complete, and scouting had been carried on so thoroughly during the winter, that it was scarcely to be doubted that in their next incursion the enemy would avoid the seaboard towns and plantations. This prospect was clear to the settlers¶ in the valley of the Connecticut and along its southern tributaries,

* Mass. Archives, vol. 122, p. 251.

† See note to resolves, 1703-4, chapter 53.

‡ Winthrop Papers, part V., p. 257.

§ Between the middle of January and the last of February assaults had also been made on Casco, York, and Berwick. During the month of April the enemy committed further depredations at Oyster River, Berwick, and Exeter.

|| See note to resolves, 1704-5, chapter 6, and Partridge's letter of February 21, 1703-4.—Winthrop Papers, part V., p. 171.

¶ Their apprehensions were quickened by definite reports from New York, such as the following:—

"*New-York May 8, [1704]* . . . Yesterday from Albany by information from our Indians acquainted, that the *French of Canada* are sending out 300 men to attack some parts of *N. England*."—*Boston News-Letter*, No. 4.

and it is now certain that such was the aim of Vaudreuil, the commander-in-chief of the Canadian forces, and of Beauharnois, the intendant at Quebec.

The great distance from its base of operations of so considerable a force as served under Colonel Church in the expedition, during the spring and summer, along the coast of Maine and to the Bay of Fundy, was an advantage which was promptly improved by Vaudreuil, in the hope of attaining results as gratifying as those that had attended the destruction of Deerfield. Accordingly, two successive expeditions were planned, the objective point of one being definitely fixed, and that of the other * being subject to change, at the discretion of the commander. The former of these consisted of fifty Indians† led by the *Sieur de Montigny*.‡

Vaudreuil and Beauharnois, in their joint report to the minister§ of marine at Paris, declare the motive of this expedition to have been the avenging the killing of some of "the Indians of Penaské." No other mention of a tribe or nation of Indians under precisely this name has been found. There are, however, circumstances connected with this foray which lead to the belief that the Indians intended were the Pennecocks—a name that, without the supposition of a typographical error, may be taken for the English equivalent of the Indian name as understood by a Frenchman.|| From contemporaneous accounts, it appears certain, as the projectors of this expedition professed, that the Frenchmen were sent from Montreal to these Indians, "as well to reassure them in the fear they entertained of the English, as to engage them to continue the war."

The manner in which these objects were accomplished is shown in the several accounts of their brutally murderous attack upon the little village of Pascomuck, then a part of Northampton, but now within the limits of Easthampton.

The *News-Letter*, which gave the earliest contemporary printed notice of the tragedy, published the following item, which contains the announcement that Captain John Taylor was among the slain:—

"Northampton, May 13. A Company of Indians and French, between day break and Sun-rising, about 60 Set upon a Garrison-house of *Benj. Jones's*, about two Miles from the body of the Town, and set fire to it ere they were aware of it; Kill'd and carryed Captive about 30. Persons. The Town being Alarmed, pursued them, the Enemy finding it, scattered themselves into parties; and so did the English into Ten in a Company, pursuing them; Capt. Taylor was kill'd in the pursuit."—*No. 5.*

A few weeks later further details were thus furnished by the same paper, as follows:—

"In our *News-Letter Numb. 5.* We gave an Account of 30 kill'd and Captivated by the Enemy at *Northampton*, of which number there are since come & brought in alive Eleven Persons."—*No. 8.*

In 1815 Rev. Solomon Williams, in a Thanksgiving sermon, gives the following interesting sketch of the destruction¶ of this rural hamlet:—

"On the 13th of May 1704, old style, the Indians attacked the village of *Pashkomuck*. The inhabitants had been settled there only two or three years, the town having granted them their home lots in 1699. The Indians had been to Merrimac river, but met with no success; they then directed their course toward Westfield, but Westfield river was so high, that they could not pass it. Some of the Indians had been at Northampton in a friendly manner the year before, and informed their companions, that there was a small village at *Pashkomuck*, where they might get provisions, for they were almost famished, and intended, as they afterwards declared, to resign themselves up, if they could obtain no food otherwise. In the evening before the 13th of May, the Indians went upon Mount Tom, and observed the situation of the place. As the meadow was then covered with water, they supposed the village might be taken, and that no aid could come seasonably from the town, on account of the intervening flood. The village consisted only of five families, *Samuel Jones's*, *Benoni Jones's*, *John Searls'*, *Deacon Benjamin Jones's* and *Moses Hutchinson's*. A little before day-light, the Indians attacked the village. *Benoni Jones's* house, which stood on the lot where *Nathaniel Kentfield* afterwards lived, was encompassed with pickets. The Indians procured flax and other combustibles, and set them on fire, which was communicated to the house. A young woman, named *Patience Webb*, was waked, and looking out of the window was shot through the head. The people surrendered, and all the above families were killed or taken prisoners. Some of the prisoners were afterwards rescued by the people from the town. These, commanded by Capt. Taylor, went round by Pomroy's meadow, and met the Indians near the Mountain, when a skirmish ensued, in which *Capt. Taylor* was killed. Of the five families before mentioned, the Indians killed the following persons; *Samuel Jones* and his wife and three children; *Benoni Jones* and two children, and the young woman before named; *John Searls* and three children; *Deacon Benjamin*

* This expedition was led by the *Sieur de Beaucourt*. See note to resolves, 1704-5, chapter 71.

† That there were Frenchmen in the company is declared by Governor Winthrop, the *News-Letter* and Penballow; and Sheldon gives the number as twenty—probably relying upon the memorandum in the book of records for old Hampshire County that the whole number of "French & Indians" was "about 72." Neither Vaudreuil nor Charlevoix mentions any other Frenchman than Montigny, though both say that four or five Frenchmen were sent to "reassure the Indians."

‡ Jacques Testard (*de la Marquette*).

§ Documents Relating to the Colonial History of the State of New York, vol. IX., p. 762.

|| Schoolcraft gives *pennaki* (crooked) and *auke* (place) as the roots of the name Pennecock, and gives also the possible alternative, *penak* and *auke*, meaning "ground-nut place."—Information Respecting the History, etc., of the Indians, etc., part V., p. 222. Dr. Trumbull gives "*pena'-ki*, 'fall of land,' the descent or downward slope of a mountain, &c."—*Conn. Hist. Soc. Coll.*, vol. II., p. 19.

No other expedition against the Indians in that direction seems more likely to have been the one complained of to Vaudreuil than that led by Captain William Tyng, as described in the notes to resolves, 1703-4, chapter 85, and 1704-5, chapter 71.

¶ A memorandum of the occurrences at Pascomuck on that sad day is entered in the recorder's book for old Hampshire County, but it seems not so full and accurate as the account by Mr. Williams. It is given in full in Hon. George Sheldon's *History of Deerfield*.

Janes and four children; and *Moses Hutchinson* and one child. The wife of Benjamin Janes was taken to the top of Pomroy's mountain, and was there knocked in the head and scalped. Our people found her in that situation, and perceiving that she was still alive, brought her home, and she recovered and lived till she was more than eighty years old. The wife of *Moses Hutchinson* was taken prisoner, but soon made her escape. *John Searls'* wife was also taken and severely wounded, but was afterwards rescued from the Indians. *Benoni Jones'* wife, and *Elisha*, the son of *John Searls*, were taken prisoners to Canada. Ten Indians went to the *lower farms*, where there was then but one house, in which *Captain Wright* lived, at the place afterwards owned by *Mr. Elias Lyman*. *Captain Wright* refused to surrender, and shot one of the Indians and broke his arm. They then attempted to burn the house by shooting spiked arrows, dipped in brimstone, upon the roof; but a young man in the house, named *Thomas Stebbins*, wrapping himself in a feather bed, drew water from the well, and put out the fire."—*Historical Sketch of Northampton*, pp. 12-14.

The following note is appended to the above account:—

"The season at that time was remarkably backward; for though so late in the year, being the 24th of May, according to the present style, the trees and bushes had not budded; and the year was so far advanced before the flood subsided from the meadow, that many persons doubted whether it was expedient to plant their corn; but notwithstanding, as there was no frost till late in the season, the crop of corn proved to be uncommonly good."—*Ibid.*, p. 14.

Nearly a century earlier, *Penhallow* had given the event a place in his History of the Indian Wars, as follows:—

"May 13th, an express came from North-Hampton, advising, that about break of day, a company of French and Indians, fell on a fortified house, at *Pascomuck*, where no watch being kept, the people were alarmed in their beds, by the noise of the enemy's rushing on the house; and before the inhabitants could rise, the Indians had got their guns through the port-holes, and shot those that first appeared, killing some and wounding others. The surprized people made what resistance they could, firing briskly on the enemy; but the house being soon set on fire, they were forced to yield themselves prisoners. The enemy soon drew off, but fearing a pursuit, dismissed one of the wounded, with this caution, that if the English followed them, they would slay the prisoners; but the unfortunate messenger in returning back, was slain by another Indian. On the same morning, another party attacked a farm house, two miles off; but the fury of the dogs so alarmed the inhabitants, that they instantly got up and fired several guns, to very good advantage, which prevented any further attempt. As for those at *Pascomuck*, they were immediately pursued; [Of the English] three made an escape, eight were rescued, nineteen slain, and three carried to Canada. Next day, *Major Whiting* pursued them with a number of horses, and came upon their track, but the ways were so impassable, that they sent their horses back with a resolve to follow them on foot, but some proving lame, and others tiring, caused the rest to desist."—*Pp.* 26, 27.

There is, perhaps, no better illustration of the celerity with which, at that time, considerable bodies of armed men were mustered, equipped, provisioned and moved to points scores of miles distant over the rough roads and through the devious trails of the New-England wilderness, than the narrative of the expedition under the command of *Major Whiting* affords. It is briefly given in the note to *resolves*, 1704-5, chapter 53. *Wait Winthrop*, himself a major-general of Massachusetts, and familiar with examples of rapid marching and quick responses to sudden attacks of the enemy, being at that time on a visit to his brother, the governor of Connecticut, thus wrote to *Secretary Addington*, enthusiastically expressing his admiration of the conduct of the Connecticut troopers:—

"NEW-LONDON, May 31st, 1704.

"... I can not avoyd doing that justice both to the Gov^{mt} and people as to observe (being at Hart. when the first post came from N. Hampton with the account of wt was don, and thinking it my duty to apply for assistance to be sent forthwith) that the alarm being given all wt employed to forward y^e matter; and while orders were preparing for *Majr Whiting*, all the brisk able men as far as *Wethersfield*, being then in the fields, left their plows and other ocations and came mounted as volunteers with long arms, and marcht away imediately, and were followed by more from as far as *Middleton* and *Farmington* in 3 or 4 hours after, or litle more, when we could hardly haue thought thay had yet had notice. I never saw anything more expeditious or don with grater freedom and courage, which, notwithstanding thay came not up with the enemy, ought to be taken notice of."—*Winthrop Papers*, part VI., pp. 127, 128.

Similar rapidity of movement is seen in the performance of the company* at the head of which *Captain John Taylor* fell mortally wounded. While the enemy were yet at the base of the mountain which overlooked the scene of their carnage that very morning they met this company, which had assembled at *Northampton*, properly armed and equipped, and, by a long detour, confronted them to delay their retreat until a sufficient force could be got together to destroy them, meanwhile pursuing and harassing them with such energy that they were obliged to abandon some of their captives alive.

The official report from Canada of this barbarous raid and massacre concludes as follows:—

"This he [*Montigny*] effected this spring, at the head of some fifty of these Indians, having burnt an English fort and taken twenty-three prisoners. *Sieur de Montigny* distinguished himself particularly on that occasion."—*MM. Vaudreuil and Beauharnois to Pontchartrain*.—*Documents Relating to the Colonial History of the State of New York*, vol. IX., p. 762.

* "Of horsemen," says *Sheldon*: History of *Deerfield*, etc., in *Greenfield Gazette and Courier*, No. 36.

The resolve which constitutes this chapter was passed in response to the following petition: —

"To his Excellency Joseph Dudley Esqr Capt general and governer in Cheife, in and ovr her Maj^{ty}s Province of the Masschusets Bay in New-England; and to the Honorable the Council; and Representatives in generall Court Assembled this 30: of May: 1705:

The Humble petition of Thankfull Taylar, the widow and Rellect of Cap^t John Taylor of Northampton deceased: —

1: for that my husband was all ways Rēdy and willing to Jeopard his Life, in the high places of the field against, her Maj^{ty}s Rebels, and Common Enimys:

2: in the prosecution of which designe my husband was vpon the 13th day of May 1704, Slain his horse worth 6 *li* & his cloaths all Lost by french, and Indian Enimys: and my self Left a poor widow, together with eleven fatherless Childrin=

3: by the war, and Loss of my husband we are drove from the improvement of a farm in the woods which was hopfull to be a Considerabl Relive and Sustantation unto us: and of famaly:

All which things being (as wee dovb^t not) duely and Candedly Considered that, benevolence, gratuity and pention will be allowed by the wonted Clemmency, of thies honnerabl Assembly, as may Relieve me in my poor and widowhood Condishon, and may be a means to incorge others in the Like Magniminius Enterprises as my deceased husband hath not ben backward to under take, not further but Leaving of you unto devins protection, praying the god of Love and peace to be yovr gide and assistence in this day of Jacobs trobel, in So doing yovr petitions shall for ever pray: &c and Remain yovr poor Adirected petitioner:

Northampton: May: 24: 1705. /

THANKFULL TAYLAR." — *Mass.*

Archives, vol. 71, p. 124.

The above petition was read in the House on the eighteenth of June, and on the next day the resolve was reported, passed, and sent to the Council for concurrence. On the twenty-first it was read and concurred in, and consented to by the Governor.

The petitioner was the daughter of Henry Woodward, an early settler in Dorchester, who removed to Northampton in 1659 and became one of the founders of the first church there. She was married to Captain Taylor, December 18, 1662.

The order in Council* for the payment of the allowances granted by this chapter was passed July 9, 1705, and the province treasurer's account† shows that they were paid.

Chap. 27. This chapter is from council records, vol. VIII., p. 136, and archives, vol. 71, p. 138.

The following is the petition mentioned in the preamble to this chapter: —

"To his Excellency The Gouvernor & ye Hon^{ble} Councill & Representatives in Generall Court assembled at Boston. June ye 8th 1705 —

The petition of Jonathan Tyng of Dunstable,

Humbly sheweth

That w^{as} yor Petitioner p^{su}uant to ye order of his Excellency Some time in ye winter before ye last at his own Cost & Charge purchased Forty Two paire of Snow Shoos at five Shill^{ls} pr paire, and the last winter forty three paire at ye Same price, which were Improved in her maj^{ty}s service under Capt W^m Tyng & other Scouts, as also hired Twelve paire, at Two Shills pr paire, In like manner Improved the the^{re} whole amounting unto Twenty Two pounds nine Shillings, and as yet Can obtaine no satisfaction for ye Same,

yor petition^{er} humbly prays. yor Excellency's and Hon^{rs} Consideration of the p^{ro}misses, That so he may have an order for the payment thereof out of the Province Treasury, which shall oblige yor humble serut

JONATHAN TYNG." — *Mass.*

Archives, vol. 71, p. 138.

The above petition was read in the House on the eighth of June. On the twentieth it was read again and the resolve which constitutes this chapter was passed and sent to the Council for concurrence. On the next day the proceedings shown in the printed chapter took place.

With this petition was filed the following letter from Lieutenant-Colonel Tyng to his son William, then at Boston as a representative to the General Court from Dunstable, stating the number of snow-shoes or "rackets" which he had on hand at different points for the public service: —

"Son Tyng I met y^e this day at Chelmsford: I have at Chelmsford 30 p^r of Rackets at my house 42 p^r at Groton 6 p^r beside them y^t were brought there of Capt Willards finding: of these about 30 may be fit for a long March & 40 may be seruiseable for Scouting with riging up the rest are lost and not fit for any seruise: I am y^r Louing ffather

June ye 14 1705

JONATHAN TYNG." — *Ibid., p. 139.*

The "scouts" under William Tyng who used the "rackets" or snow-shoes for which the petitioner asked to be compensated were those who went "into the woods" from Dunstable with Captain Tyng in January, 1704-5, an account of which expedition is given in the note to resolves, 1704-5, chapter 98.

The order in Council‡ for the payment of the allowance granted by this chapter was passed July 9, 1705.

Chap. 28. This chapter is from council records, vol. VIII., p. 135, and archives, vol. 71, p. 164.

* Executive Records of the Council, vol. 4, p. 196.

† *Mass. Archives*, vol. 122, p. 256.

‡ *Sic.*

§ Executive Records of the Council, vol. 4, p. 195.

Jacob Amsden * mentioned in the preamble to this chapter, and who died June 11, 1701, was the son of Isaac of Cambridge, whose widow Frances (Perriman) survived him and became the second wife of Richard Cutter.

By her first husband Mrs. Amsden had, besides Jacob, a son, Isaac, and by her second husband she bore seven children, including a son, Nathaniel; a daughter, Rebecca, who, December 19, 1688, was married to Thomas Fillebrown; a daughter, Hephzibah, who, June 7, 1698, was married to Jabez, son of John Brooks of Woburn; and a daughter, Sarah, who, December 5, 1700, was married to James Locke of Woburn.

The first Isaac Amsden died seized of but twelve acres of land, which the court assigned to his widow.† Upon Jacob's death without issue his real estate descended, subject to the interest of his widow, to his next of kin; the half-brother and sisters aforesaid claiming equally with his brother Isaac, of the whole blood. The widow of Jacob (Susanna, daughter of John Marrett of Cambridge) was appointed administratrix of his estate. Before she had returned an inventory, she joined with her brother-in-law, Isaac, in the following agreement concerning the disposition of the intestate's property, which was duly acknowledged by both parties before the judge and in the presence of the register of probate: —

“Articles of Agreement made and concluded upon this, nineteenth day of August One Thousand Seven hundred & one, in the Thirteenth year of the Reigne of our sovereigne Lord William the Third King of England &c. by & Between Susanna Amsden Relict Widdow of Jacob Amsden Late of Cambridge in the County of Midd^s in y^e Province of y^e Massachusetts Bay in New Engl^d. Deceas'd Intestate, who is Administratrix to y^e said Deceaseds Estate On the one part, & Isack Amsden of Maulburrow brother to the said deceased in said County on the other part, in order to a mutuall and f[nal] Settlemēt of said Deceaseds Estate, is as ffolow's, viz^t —

Impr^s. That the said Widdow Susanna Amsden & her assignes shall have hold & Enjoy all the personall Estate of her deceased husband for Ever, Excepting all his wearing Apparell, his Silver hilted Rapier & Simitar, w^{ch} Isack Amsden Brother to sd Deceased, is by this Agree^t spedily to have, as also y^t sh^e sd Susanna Amsden & her Assignes shall have hold possess & Enjoy all the houseing & Lands of her sd Deceased, husband all the time of her Continuance to be his widdow, and if it so happen y^t sh^e marry within Twelve Yeares after y^e date hereof, sh^e shall quitt all y^e said houseing & Lands vnto said I[sac^k] Amsden his Heires or Assignes he or they Paying to her five pounds Curr^t mony as is hereafter Expressed . . .

2^{dly} That the said Isack Amsden Shall forthwith have all the Wearing Apparell of his deces'd Brother Jacob Amsden & his silver-hilted Rapier & a Simitar; and at the Decease, or Marriage of sd Susanna Amsden he shall have & Enjoy all the houseing & Lands of y^e said Deceased to him and his heires forever & he or they shall pay vnto her or her Assignes five pounds Curr^t mony of this province, vpon her marriage in case sh^e marry wth in Twelve Yeares after the date hereof, vpon her or their Quitting y^e said houseing & Lands to [him ?] the said Isack Amsden [his heirs and ?] Assignes forever. In W^{it}ness ?] whereof the abovesaid Susannah Amsden Relict Widdow of Jacob Amsden aforesaid; and Isack Amsden his brother have herevnto Set their handes & Seales Dated as Abone

Sign'd Seal'd & deliver'd

in p'sence of vs —

DANLL RUSSELL

PELA WHITEMORE

The ϕ mark of (Seal)

SUSANNA AMSDEN

ISAAC AMSDEN (Seal)

Susannah & Isack Amsden psonally appeared before me the Subscriber Judge of Probates for y^e County of Middlesex and acknowledged the wth in mentioned agreement to be their act & Deed Dated in Charlestowne y^e 19th August 1701

SAMLL PHIPPS

JA: RUSSELL." — *Middlesex Registry of Probate (Files, No. 180).*

The appraised value § of the whole of the estate of the deceased was £171 Ss. 14d.

The income of the estate proving insufficient for the maintenance of the widow, she deemed it equitable that some portion of it should be turned into money for her comfortable support, notwithstanding the agreement she had signed with her husband's brother. She therefore presented to the General Court the petition mentioned in the preamble to this chapter. It ran as follows: —

“To his Excellency the Governour, The Hon^{ble} Councill and Representatives in Gen^{rl} Court Assembled in Boston

The Humble Peticon of Susanna Amsden Widdow y^e Relict of Jacob Amsden late of Cambridge in y^e County of Midd^s within her Majest^s Province of y^e Massat^s Bay in New England

Sheweth

That, y^{or} poor Peticon^s late husband leaving a small Estate, viz^t: one dwelling house & barn & about halfe an Acre of Land wth a small piece of Marsh & Division of out land all apprizd att one hundred & nine pounds, w^{ch} is not capable of Rendering any Rents sufficient to support a single person & y^e Clear personall Estate amounting but to fifty Eight pounds thirteen shillings, w^{ch} consists chiefly of necessarrey household stuff, the whole being y^e acquirement of y^{er} poor peticon^s sd: Husband & her self since they were married; It so happeneth y^t y^{or} sd poor peticoner by reason of weakness and sickness w^{ch} groweth upon her is not able as att sometimes she hath been, to stir about to get what is necessarrey for her subsistence whereby she is reduced to great diffelity & want

Wherefore y^{or}: Humble Peticoner humbly prays y^{or}: Exelency & this hon^{ble} Court to

* He “resided on the westerly side of Ash Street. He was a glazier, and in 1681, contracted ‘to repair the glass of our meeting-house, for ten shillings; and to keep it in repair for seven years following, for fifteen shillings a year.’” — *Paige's History of Cambridge*, p. 480.

† Inventory, June 25, 1661. Middlesex Registry of Probate (Files, No. 180); and Registry of Deeds, book 2, p. 370.

§ Manuscript mutilated.

§ Sworn to May 25, 1702; Inventory. Middlesex Registry of Probate (Files, No. 180).

take ye: Premises into yor: Consideracon & grant her liberty & power to sell a small piece of Marsh about an Acre, & a piece of Land containing three Acres & three quarters^{wh}: yeilds no income as it lyes, being a small lott lately layd: out att a distance from ye house, whereby yor: poor petitioner's necesssities may be supplied, And yor: said Peticonr: shall as in duty bound Ever Pray &ca:

SUSANAH AMSDEN." — *Mass.*

Archives, vol. 17, p. 163.

It does not appear when the above petition was first read in the House, but by June 19, 1705, it seems to have been committed, and though no report of the committee has been found, its purport is seen probably in the following order adopted by the House and sent to the Council for concurrence on that day: —

"Ordered That ye sd widows petitiē be Granted, by Giueing her power from this Court to make sail of sd Lands: y^t she prayes to make sail of & a Bill be Drawn accordingly." — *Ibid.*

The next day the papers reached the Council, when the order which constitutes this chapter was passed and sent to the House for concurrence. On the twenty-second it was concurred in, and consented to by the Governor.

See resolves, 1706-7, chapters 53 and 106.

Chap. 29. This chapter is from council records, vol. VIII., p. 137. It is preserved in archives, vol. 11, p. 193.

The resolve which constitutes this chapter was passed upon the following petition: —

"To his Excy Joseph Dudley Esq^r, Capt^m Gen^l Gover^r In Chiefe &c: and the Hon^{le} her Maj^{ties} Council, and Representatives, In Gen^l Court Assembled In Boston, May 29th 1705.

The petitiō of W^m Ting, Representat^y for the Towne of Dunstable, and in behalfe of sd^d towne

Humbley sheweth

That, the deplorable Condetiō of the poore Towne of Dunstable, Cranes Your Exc^e and Your Hon^{rs} pitty and Compassiō, It needs not be mentioned in particuler, the losse y^t poore Towne hath sustained, If Your petet^r should pretend to it y^e time would faile him, but after all other losses y^t might be mentioned cranes leaue to mention, the loss of their Reverend min^{ster} Mr Tho^s Wells,* and this Hon^d Court, were pleased the last Yeare to Allow this poore Towne twenty-pound towards the suport of y^e minestrye there, with which they had much adoo to Rubb along, now may it pleas Your Exc^e and Your Hon^{rs} the Exstream poverty of sd^d towne is such that without som farther mannefestatiōs of Your mercy, in y^t Kind, they will not be able to support a minester in any measur becomingly

Therefore Humbly prayeth for further Consideratiō and help in this matter so shall Your Exc^e and Hon^{rs} petitiō^r Ever pray &c:

W^m TING." — *Mass.*

Archives, vol. 11, p. 193.

This petition was read, first, in the House on the twenty-first of June, and on the same day the resolve was passed and sent to the Council for concurrence. On the next day it was read and concurred in, and consented to by the Governor.

The advice and consent of the Council for a warrant to the province treasurer to pay this allowance was given August 29, 1706, as follows: —

"Advised and Consented. That a Warrant be made out to the Treasurer at the desire of the select men of Dunstable to pay the above sum of twenty six pounds to Jonathan Tying Esq^r for the use aforesaid." — *Executive Records of the Council, vol. 4, p. 312.*

The province treasurer's account† shows that it was paid accordingly.

See resolves, 1703-4, chapter 90, and note.

Chap. 30. This chapter is from archives, vol. 62, p. 495. It is recorded in council records, vol. VIII., p. 137.

For some reason not obvious in the record, the hearing ordered by chapter 8, *ante*, was continued one week from the time originally appointed, as mentioned in the foot-note to that chapter.

The following paper was submitted by Coit, apparently at this hearing: —

"Some years ago there was a Cutt made at Cape Ann for Boats & vessells to pass through, and some Land was given the person who first undertook to cutt & clear the sd passage One Blinman sold the priviledge of sd Cutt to one Stephens, who Improved the same and made it deeper & navigable for larger Vessells; There was a Town order that those p^{sons} who were owners of the Land on both sides the Cut, should keep and maintain the same; But no care taken for the Bridge that goes over the same, which must be attended on twice in twenty four hours, & turned for every boat y^t passes from A^d flood to Ebbling water again. or else passengers cannot get over there was also a Town order that the Townsmen should have the free passage with their Boats in sd Cutt; which was at first intended for small fishing shallops &c. but is now much larger, & consequently the keeping it clear much more chargeable, and sd Cutt being now quite fill'd up, the Town are very urgent to have it clear'd again, which cannot be done without some allowance & Encouragem^t — It is therefore humbly proposed to the Consideration of the great and general Assembly that towards the charge of clearing the sd Cutt & making it navigable as before and as an Encouragem^t to look after and turn the sd Bridge some what

* Rev. Thomas Weld (H. C. 1671), son of Thomas of Roxbury, died June 9, 1702, aged forty-nine years.

† *Mass. Archives, vol. 122, p. 275.*

‡ Doubtful.

may be allotted for every Boat & other Vessell to pay for their passage, either, so much p^{r} Tun or so much p^{r} annum. to the person or persons who shall undertake to clear the sd Cutt, & attend the sd Bridge as aforesd. And the present proprietor of y^e Land has for 3 years last past taken the care of clearing the sd Cutt (only this last spring it was quite stopd up) and has expended a Considerable sum of money abt it, and has also taken care & attended the sd Bridge 2 years without having received any Recompence for the same.

NATHANIEL COIT." — *Mass.*

Archives, vol. 62, p. 494.

On the day of the hearing the order which constitutes this chapter was passed by the Council and sent to the House for concurrence, where it was read twice, passed in concurrence, and consented to by the Governor.

See chapters 58 and 66, *post*.

Chap. 31. This chapter is from archives, vol. 3, p. 412. It is recorded in council records, vol. VIII, p. 139.

The resolve which constitutes this chapter was passed in response to the following petition:—

"To his Excellency Joseph Dudley Esq^r Cap^t General and Govern^r in Chief in & over her maj^{ties} Provinces of the Massachusets-bay &c. in New England To the Hon^{ble} her Maj^{ties} Council and House of Representatives now in General Court assembled in and for sd Province May 30th 1705.

The humble Petition of Lewis Bane & Joseph Hill Representatives for the Towns of York & Wells in behalf of them selves and the Rest of the Inhabitants of y^e province of Main

Sheweth That the Inhabitants of the s^d Province have been extreemly harrassed during the last long Warr with the Indians insomuch That they were forced to break up and betake themselves to Garrison, and when the peace was concluded every one being willing to go and make the best Improvement they could of their Estates, and laid out what they had, and what they could borrow to furnish themselves with Cattel, & other Stock for which several of them are still in debt having not been able during this short peace to recover their fortunes. . And now (may it please yor Excellency and Hono^{rs}) they have been ever since the begining of this Warr, and still are Exposed to the Incursions, and their Cattel to the Depredations of the Barbarons Enemy; many whereof have been found killed by them, & many more missing. And because of their being continually in such Danger they are forced to live in Garrisons and cannot Improve their Estates, Insomuch That they are thereby reduced to very unhappy Circumstances and will be very shortly constrained to desert the province, if they have not some Ease given them & favour shewn them by this great & General Assembly. And there being now Two years Taxes due from the Province, which they are in no ways able to pay, on the contrary are not able to support their Families, especially those who are forced to leave their Houses, and Lands and to live in Garrisons, houses where they are ordered to go, & where they guard the owners of such Houses Estates their own in the mean time going to ruine & they themselves ready to Perish through want if some redress be not made therein

Yor Petitioners therefore humbly pray This great and Honoble Assembly would please to take the the^s premises into their pious and Charitable Consideration and in regard of their great Poverty would be pleased to Remit them their Taxes., and be pleased to order That those persons who are forced to go to Garrison Houses & so cannot Improve their own Estates, may during the Warr be allowed some liberty and priviledge for pasture, and planting in the grounds belonging to such Houses for their necessary support. As to yor Excell^{cy} and Hono^{rs} in yor Wisdom shall seem meet.—

And yor Petitioners (as in duty bound) shall ever pray &c.

LEWIS BANE
JOSEPH HILL." — *Mass.*

Archives, vol. 3, p. 412.

This petition was read in the House on the nineteenth of June and a resolve was forthwith passed thereon "that the arrearages of Taxes due from y^e Townes of Yorke & Wells be Remitted to them & that they be not Rated in y^e p^{re}sent Tax"† which was sent to the Council, with a supplementary resolve. On the twenty-sixth the Council concurred in the latter resolve, which constitutes this chapter, and the Governor consented thereto.

See chapter 33, *post*.

Chap. 32. This chapter is from council records, vol. VIII, p. 140, and archives, vol. 71, p. 131.

The petition mentioned in the preamble to this chapter is as follows:—

"To his Exclency Joseph Dudley Esq^r Cap^t general, and governer in Chief, in and over her Maj^{ty} province of the Masschusetts bay in New-England, and to the honnara^{bl} Council, and Representivs in general Court Assembled this 30th of May: 1705

The Humble petition of John Bridgman Jun^r, of Northampton, who being at Dearfield upon the : 29: day of Fabur: 170 $\frac{1}{2}$ at the time when it was destroyed, and there meet with Considerable Loss in Cloath and a maim in his body: being in her maj^{ties} sarvice and under pay:

1^y I Lost in goods Cloathing and money to the value of five pouds eleven shilling & six pence

2= I was taken by the Enimy and when I was in there hands they cut off, the fore finger, of my Right hand

3 by which wound I Lost my time and was disanbled from, work four months:

from which Resons I humbly petition to yovr Excl^{ty} and this honnorable Court, that

* *Sic*.

† *Mass. Archives*, vol. 3, p. 412.

you would be pleased to bestow upon me such allowance, Pensions, and gratuity, as of your wonted Clemmency you shall think fitt, in so doing your petitioner shall forever pray &c: and Remain your Hum^{bl} servant

Northampton: May: 22: 1705

JOHN BRIDGMAN Junr." — *Mass.*

Archives, vol. 71, p. 131.

With this petition were filed the following schedule of losses and certificate of the Lieutenant-Colonel under whom Bridgman served:—

"Jno Bridgeman a Souldr at Deerfield fight febr 29 1704

Lost

To 1 Sadel Oyle Leather britches & wascoat 1 pr gloves Muslin Neckcloth 1 handkercheife 1 pr stockins & a shirt half a pound powdr 1 li bullets One searge wascoat & in Mony 14s—

Sadel:	1: 06: 0:	Neckcloth & handkercheife	0: 06: 0
Leathr brehes:	0: 15: 0	stokings	0: 04: 0
Leathr wescot:	1: 00: 0	shirt	0: 05: 0
glovs	0: 03: 0	powder Leads	0: 02: 6
sarg wescot:	0: 16: 0	mony	0: 14: 0."

— *Ibid.*, p. 132.

"John Bridgeman junr being taken in ye fight at Derefd feb 29 1704 & made his Escape with ye Loss of his finger & Considerall of his cloathing & tyme for weh he hath had no allowance & Yet Ought to be allowed with those bills formerly allowed * to Cap^t Wells & Eben^r Wright weh had Nothing there Nor Since although I gave an account of this mans & Severall Others to ye Secretary or Commissary Gen^l weh Lost their cloaths as aforesd dated 21 May 1705

SAM^l PARTRIDGE Lt Col^o." — *Ibid.*,

p. 133.

The petition was read in the House on the twentieth of June, and on the twenty-sixth the resolve which constitutes this chapter was passed and sent to the Council for concurrence. On the twenty-seventh it was concurred in, and consented to by the Governor.

The order in Council † for the payment of this allowance was passed July 9, 1705, but the payee is there called John Bridgman, senior. The province treasurer's account ‡ shows that the allowance was paid to "John Bridgeman," without any addition.

Chap. 33. This chapter is from archives, vol. 3, p. 413. It is recorded in council records, vol. VIII., p. 140.

During the third session of the Legislature of 1704–5, the inhabitants of the town of Wells presented the following petition:—

"Wells Octobr 24th 1704.

To His Excellency the Govern^r, Her Majesties Honour^{ble} Council, & ye Hon^{ble} House of Representatives; In Gen^l Court Assembled: At Boston of ye Massachusetts.

The Humble Petition of ye Town of Wells, in ye County of Yorke.

May it please your Excellency yor Honours, & ye Hon^{ble} House of Representatives. It hath seemed good, to this great & general Assembly, to lay on us, as our part of three several Taxes, ye sum of 80^{li}: 30^{sh}: whereof was required just upon the bloody desolation, weh it pleased God, in his sovereignty, to make on our Town, by ye Eastern Enemy, last year, in weh many of our inhabitants (& they such as were wont to bear a great part of our publick charges) were either murdered or taken captives; their Houses burnt, & goods spoiled, besides diverse others, escaping w^h only their cloaths on their backs So that we, who are ye Frontier wing of ye Body of Frontier Towns, are most of all impoverished & diminished, more then a third part of our number are, one way or other, gone from us: & a great part of us who are left, being destitute of imployment & income are so exceeding poor, that if ye Constable, who hath already used all means more gentle, should execute ye law in severity, he must take their bodies. Our straights are every way enlarged; What we did formerly allow to our Minister, weh, at best was but a slender maintenance, we are not able now to make good & if Country rates be exacted, we have reason to fear, that do what we can, our Minister will be constrained to leave us; he having already removed his family, for want of a convenient dwelling place; his house being only raised & partly inclosed before ye present warr began: which to finish, will be impossible for us, if that little weh (thanks be to God) is left us, should be taken from us; while we hold our lives in our hands, weh weh we should labour in improving our lands; which also, excepting what are near adjoining to our Garrisons, lye wast: insomuch, that what we do or can improve, will come farr short of finding us Bread corn.

Moreover, instead of adding to that little weh ye former warr had left us; we did, in ye short time of peaceable intermission, lay out what might be spared from our backs & months, in building a meeting House, & rebuilding our old wast places, & setting new ones; as also in erecting mills, weh are now, before they could in any measure repay our disbursements, useless & unprofitable.

May it therefore please this Honour^{ble} Assembly, to comiserate ye distressed condition of your impoverished & exposed Petitioners; groaning under many heavy burdens, enough to sink us if now we fail of releif; & to remit our above mentioned Taxes, excepting what is granted out of them, to our Minister. Thus humbly praying that ye most fayable construction may be made of our bold importunity, & what ever else may be found amiss herein; while we have not exceeded, but come very short, in representing ye hard circumstances of our present calamity; we must leave our very sad case to ye all disposing influences of a gracious God, who knows ye depths of our straights; & can move your

* Bridgman's name does not appear in the list, printed in the note to resolves, 1704–5, chapter 6, of those who suffered loss at Deerfield. But see note to chapter 110 of the resolves of that year.

† Executive Records of the Council, vol. 4, p. 196.

‡ Mass. Archives, vol. 122, p. 256.

Excellency's & Honour's bowels of compassion towards your Dutifull Servants; who shall ever pray &c

JOSIAH LITTLEFIELD,
THOMAS BASTON
SAM^l HATCH

JOHN WHEELWRIGHT
JOSEPH STORER
JOSEPH HILL
JONAN HAMOND

In behalf of y^e

Town of Wells." — *Mass. Archives*, vol. 3, p. 405.

This petition was read in the Council on the thirty-first and sent to the House, where on the first of November it was read, and on the ninth the following order thereon was adopted and sent to the Council for concurrence:—

"Nov^r 9, 1704. Considering the losses & Calamitys of the Town of Wells, Ordered That forty Pounds be abated them of the Eighty Pounds levied on that Town last Year; *and the other forty Pounds be Suspended by the Treasurer, untill the next May Session.*" — *Ibid.*, p. 406.

The words in Italics were cancelled apparently before the vote was sent to the Council. On the first of November a petition asking for similar relief was presented by the inhabitants of the town of York and likewise read and sent to the House, as follows:—

"To His Excellency Joseph Dudley Esq^r Captain Generall, and Governour in Chief, of Her Maj^{ties} Province of the Massachusetts Bay. &c^s and the Honorable the Councill and Representatives in Generall Court Assembled

The Petition of The Inhabitants of the Town of York.

Most humbly Sheweth

That Your Petitioners, being one of the Frontiers of this Province, and as much as any Exposed to the bloody Impressions, of the Barbarous Salvages, are so far Prevented and Restrained following their Labour, for their support and Livelyhood, that for the year past they have not been able to Raise a tenth part, of the bread-Corn necessary for their Subsistence, and are Required notwithstanding not to Qvitt, but maintain their Post, And furthermore are assessed in the last year the sum of Eighty Pounds by this Honourable Court.

Your Petitioners do therefore most humbly & earnestly Pray this Honourable Court, to Take their Distressed Condition into your serious and Compassionate Consideration, and if nothing may be allowed from the Publick for their support yet that the s^d assessment may be abated, and not Exacted of them, Or at least that they may have Permission to Remove from their hazardous Post, without forfeiting their Interests there, and seek their safety and support in such other Parts of this Province as they shall be Directed to

And your Petitioners shall as in duty bound Ever Pray

LWIES BANE

representitife

for york." — *Ibid.*, p. 407.

On the ninth the House passed the following resolve on this petition and sent it to the Council for concurrence:—

"Considering the Distressed Circumstances of the Petitioners.

Resolved That the one halfe of their Rate be abated, *and the other halfe being forty Pounds be left to the Consideration of the Gener^l Court next May.*" — *Ibid.*, p. 408.

In this as well as the former resolve the words which appear in Italics were apparently cancelled, and on the tenth the Council voted a nonconcurrence in both. The reason for this action may be inferred from the following entries in the legislative journal of the Council, considered in connection with the above votes of the House and the order which constitutes this chapter:—

"Nov. 9, 1704. The several Petitions of the Towns of York, Wells, & Lancaster* for an Abatement of their respective Quota's in the last Province Tax, with the Resolve pass'd thereon by the Representatives, were Read & sent down to the House for further Explanation and Certainty therein." — *Council Records*, vol. VIII., p. 84.

"Nov. 10, 1704. The Petition of the Town of Wells for an Abatement of their Quota to the Province Tax, sent up from the Representatives with the Resolve of that House to abate them one Half thereof was read, & on the Question put for Concurrence, Was carried in the Negative." — *Ibid.*, p. 85.

During the first session of the Assembly, 1705-6, the subject of the pecuniary distress of Wells and York was again brought up, upon the petition of Lewis Bane and Joseph Hill printed in the note to chapter 31, *ante*. That resolve was passed on the twenty-sixth of June, and on the twenty-seventh the order which constitutes this chapter was passed in the Council and sent to the House for concurrence. It was concurred in on the same day, and consented to by the Governor.

In accordance with the above abatements the following votes of advice and consent were passed for warrants to the province treasurer to pay the ministers of York and Wells, as directed by the order:—

"Feb. 22, 1705-6. Whereas the General Assembly at their Session begun and held at Boston the 30th of May 1705 Ordered an abatement to the Towns of York and Wells respectively of part of their arrearages to the Province Taxes, and that the remainder thereof, vizt sixty five pounds from York, and fifty six pounds five shillings from Wells be assessed, collected and paid into the Treasury by two equal paym^{ts}, the first at or before the first day of November now past, and the other halfe at or before the first day of November 1706. And Impowred the Govern^r by and with the Advice and Consent of the Council to issue forth Warrants to the Treasurer to pay to the Ministers for the time being of the s^d two Towns respectively, for their support and service there, towards their Salaries from the s^d Towns, the aforesaid sums of sixty five pounds, and Fifty six pounds five shillings, the said Towns to make good the remainder to their Ministers.

* The petition of the inhabitants of Lancaster, and the action of the Legislature in response thereto, are given in the note to resolves, 1704-5, chapter 96.

Advised and Consented That Warrants be made out to the Treasurer to pay unto Mr Samuel Moody Minister of York, the sum of thirty two pounds ten shillings; and to Mr Samuel Emery Minister of Wells the sum of twenty eight pounds, two shillings and six pence in part of the sums above mentioned."—*Executive Records of the Council, vol. 4, p. 266.*

"March 10, 1706-7. Whereas the General Assembly at their Session begun and held at Boston the 30th of May 1705. Ordered an abatement to the Towns of York and Wells respectively of part of their arrearages to the Province Taxes; and that the remainder thereof, vizt sixty five pounds from York, & fifty six pounds five shillings from Wells be Assessed, collected and paid into the Treasury by two equal payments, the first at or before the first day of November 1705 and the other halfe at or before the first day of November 1706. and impowred the Govt by and with the Advice and Consent of the Council to issue forth Warrants to the Treasurer to pay to the Ministers for the time being of the said two Towns respectively for their support and service there, towards their salary's from the sd Towns, the aforesd sums of sixty five pounds, and Fifty six pounds five shillings. The said Towns to make good the remainder to their Ministers.

And whereas by advisement of the Council the 22d of February 1705 Warrants issued to the Treasury for payment of the first halfe of the aforesaid sum's respectively, to wit: £32-10-00 to Mr Moody Minister of York and £28. 2. 6. to Mr Emery Minister of Wells.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the further sum of thirty two pounds, ten shillings to Mr Samuel Moody Minister of York, and the remaining sum of twenty eight pounds two shillings and six pence to the aforesd Mr Emery, which sums compleat the above payments."—*Ibid.*, p. 381.

The province treasurer's accounts* show that the amounts of the warrants thus ordered, respectively, were paid.

Chap. 34. This chapter is from council records, vol. VIII., p. 140. It is preserved in archives, vol. 101, p. 296.

The following is John Briggs's account of service. The resolve upon it was passed by both branches and consented to by the Governor on the same day.

"Jno: Briggs his Acc^t: as messenger to y^e house of Representat

June 7: 1705

To serving a sūm ^y on y ^e selectmen of Sandwich	3	00	00
to travilling fee 64 mile	16	00	00
To serving a sūm ^y on y ^e selectmen & Constable of Little Compton	6	00	00
To travilling fees from Sandwich to Little-Compt ^y 60 miles	15	00	00
	£11. 2	00	00

—*Mass. Archives, vol. 101, p. 296.*

The order in Council† for the payment of the allowance granted by this chapter was passed July 9, 1705, and the province treasurer's account‡ shows that it was paid.

Chap. 36. This chapter is from archives, vol. 101, p. 294. It is recorded in council records, vol. VIII., p. 141.

After the attack on Deerfield, in which so many persons of both sexes and of all ages were taken captive and carried to Canada, Dudley commenced negotiations for the liberation of these captives, as shown in the note to private act, number nineteen. He approached the subject cautiously, as if his main purpose were to obtain a pledge that the Indians should not be permitted to hold or maltreat English prisoners, nor in warfare to practise their customary barbarities towards noncombatants. At the same time he intimated that it would be in his power to retaliate if the outrages he complained of were suffered to continue.

The following are the letters § which in that note are mentioned as having been sent by Dudley to Vandreuil, and to which he had received no reply when Sheldon and Wells applied to him for passports to enable them to effect the negotiations in person:—

Sir:—

"Boston, April 10, 1704.

In this present war between my Sovereign Lady and the King of France, I look for every kind of hostility from your nation; but I have always justly expected that there would be no breach of the laws of the Christian religion which has always protected the poor peasant, the women and children from outrage or captivity, whom I find that the people of your government (who have joined the barbarous Indians) have pursued with the utmost cruelty, and you have held in a harsh captivity.

I will say to you that since this last war began, and I took command here for the queen of England, I have had more than two hundred prisoners of war of your nation, whom I have fed better (according to their own statement) than they were fed in France.

I clothed them and sent them back to Europe by the first conveyance, while during that very time you were glorying in shooting at and butchering my poor women and children and in carrying the rest into a miserable captivity, which is now a matter of trade between the Indians and the subjects of your master in your government.

I write you this to tell you that such treatment of Christians will be considered barbarous by all Europe, and that I justly expect that you will reclaim all these Christian

* *Mass. Archives, vol. 122, pp. 253, 283.*

† *Executive Records of the Council, vol. 4, p. 196.*

‡ *Mass. Archives, vol. 122, p. 258.*

§ These letters, no copies of which have been found in the state archives, are fortunately preserved in the "*Collection de Manuscrits*," etc., referred to in the note to chapter 13, *ante*. They are without signatures and are here translated from the French.

captives from the hands of the Indians and that you will restore them to me as I did a little while ago at Port Royal with your people who were of that place, and returned the remainder to Europe whence they came; and this I shall continue to do until I have your reply to this letter.

I shall not lack opportunity to treat your people in a less agreeable way, as I could have done this week when forty * of your men from Port Royal were thrown upon our coast; I have enough Indians to have destroyed them. But I stayed the Indians and [saved] your people, who are now in my hands."—*Vol. II., p. 410.*

Sir:—

"Boston, August 21, 1704.

I wrote you some time ago with regard to the prisoners who were taken in different parts of Her Majesty's provinces of New England in which I have the honor to command. I am displeased to learn that the Indians who are in your service are so strongly the masters that to them are attributed all the cruelties that have been practised by your forces. However that may be, I must bear it as I can.

I have now to inform you what I would have done with the subjects of Her Majesty in your hands. I have double the number of yours in my possession to whom I give fresh meat every day and excellent lodging, and I have the right to expect the same treatment for Her Majesty's subjects in your hands.

Last year I made an exchange with the *Sieur de Brouillon*. I am content to make the same exchange with you; and if I can have assurance that all the prisoners in your hands will be sent home, I will, upon my honor, release the French prisoners who are in my hands.

Some of your countrymen have been sent back to Europe: and to those who remain I have given such treatment as is becoming a Christian and a good servant of my Sovereign Lady the Queen.

On coming to this government I was surprised when I learned that in your government in the last war a price was set and paid to the Indians on the head of every Englishman; as if Christians might be considered as so many wild beasts and doomed to destruction accordingly.

I do not believe that any Christian prince in Europe would be willing to confess to having given such orders to his servants abroad. However that may be, if the war continues, I shall be obliged to use a method with your people different from that which I have now a desire to take.

I shall expect your answer to this and an honorable treatment of the captives in your hands. I cannot concede that anyone claims that prisoners may be left in the hands of Indians, because I do not permit a savage to tell me that a Christian prisoner is at his disposal."—*Ibid., p. 425.*

Between the dates of these two letters two hostile incursions from Canada had been made by the French and Indians. In the former of these (on the thirteenth of May), of which an account is given in the note to chapter 26, *ante*, a few English were added to those already in captivity in Canada. The second incursion (on the thirty first of July), described in the note to resolves, 1704-5, chapter 71, though on a very large scale, was extremely disastrous to the French, and hence did not change the relative number of prisoners held by the belligerents,—the French prisoners taken by the English at the eastward and carried to Boston during the summer having increased their number of captives to a total considerably larger than the whole number of the captive English in Canada. This circumstance, and the demoralization consequent upon the miscarriage of *Beaucourt's* unfortunate expedition, apparently rendered *Vaudrenil* less reluctant to consider proposals for the exchange of prisoners, and even to express his readiness to make such exchange by way of Albany. There were also some indications of defection on the part of the Indian allies of the French.†

This feeling (which was doubtless in some measure the result of disappointment at *Beaucourt's* failure to meet expectations founded upon his reputation as a soldier and upon the unusual preparations made to ensure his success) could not have escaped the notice of so sagacious an observer as *Vaudrenil*.‡

While hostilities were actually proceeding it was scarcely possible to communicate either overland or by sea with Canada through messengers from New England. A hostile fleet from Boston was ravaging the coasts of Acadia; and successive bodies of Indians, under the lead of French officers, but not so completely under their control as to insure the safety of any New Englander whom they might encounter, were moving through the wilderness to devastate the frontiers of Massachusetts. At Albany, however, the English and Dutch, though sympathizing with, and constantly advising, their English neighbors, were maintaining, nominally, a strict neutrality, and carrying on trade with both sides.

* See note to resolves, 1703-4, chapter 117.

† On the very day on which Dudley was writing his second letter to *Vaudrenil* Major Whiting, in a letter to Governor Winthrop from which the following is an extract, quoting from Colonel Schuyler information derived from "three Indians in the Maquaw country," of disaffection among the French Indians, and of *Vaudrenil's* profession of willingness to exchange prisoners, wrote thus:—

"Further he adds that the Coll. in his travell met wth other two French Indians to whom he presented two belts of woppon, requiring or desiring them to lay down the hatchet they had taken up against the Governemts of New England, wch they receiv'd & will returne answere in the full. Agen, one of our owne Indians that was not a little inclin'd to the French interest, upon his conference wth them did resolve to go to Canada and demand M^r. Williams of them, wch if they refus'd to deliver he would forsake their interest and take up the hatchet ag^t them. This is the substance of the Intelligence, only that the Governor of Canada is willing to exchange prisoners by the way of Albany or Onondagoes. Thought it my duty to advise you thereof, have therefore sent down to Cap^t. Allyn wth orders to forward it to your Honour."—*Winthrop Papers, part V., p. 260.*

‡ Hence, probably, the exemption from invasion which the English enjoyed for several months after the repulse of the enemy at Lancaster.

This explains why Dudley had chosen to send the above letters by way of Albany. As time wore on it was thought that English messengers might proceed overland to Canada without molestation, and this sense of security led Shelden and Wells to make the proposal mentioned in the private act referred to in the beginning of this note. The action of the Governor and Council upon this proposal is thus recorded:—

"Dec. 13, 1704. His Excellency acquainted the Council, that he has received no Answer to his letters * sent to the Governor of Quebec, via Albany relating to the English Prisoners, the one in April and the other in August past, and that it was doubtful whether those Letters found a safe conveyance; as also that John Shelden and John Wells of Deerfield (who both have relations in Captivity there) were now attending him and very urgent to have Licence to Travail thither there being also two French Prisoners used to that Rhode, who have their relations here, that are willing to conduct and Accompany the sd Englishmen, with his Excellency's letters, & to see them safely returned at the peril of having their near relations here exposed.

And his Excellency proposed the conveying them by water to Casco, and from thence to take the direct course through the Country to Quebec, in order to gain the knowledge what number of Prisoners are in that Country, and to make way for their release and Exchange in the Spring.

Which the Council approved and Advised." — *Executive Records of the Council, vol. 4, p. 125.*

The reasons which induced Dudley to dispense with the services of the two French prisoners who had been selected to accompany these messengers,† and in their stead to nominate Captain John Livingston, and the action of the Council upon this proposition, appear in full in the note to resolves, 1704-5, chapter 25.

Livingston, besides having served the province as leader of a company of volunteers‡ from Connecticut in the pursuit of Beaucourt's retreating army, had, more recently, acceptably represented Connecticut as one of the commissioners § from that colony appointed to coöperate with the Massachusetts commissioners in concluding a treaty with the Iroquois. This honorable appointment he received from his father-in-law, the Governor of Connecticut; and so, while by marriage allied to, and received by, the most distinguished families of Boston, he had had opportunity to exhibit his qualities to other leading men of the province in the field and in the Council.

The Governor in his speech at the beginning of the fourth session (December 27, 1704) informed the representatives of his doings in furtherance of this new plan, and of the advice of the Council, as follows:—

"... I have also lately by advice of the Council Determined & made ready an Errand And Letters to Mr Vordril Governour of Quebec referring to an Exchange of prisoners to receive ours in their hands & to quit us of the Charge of theirs who will probably be able to give us at their return some account of the posture of the french to Direct us in our future Methods. . . ." — *Mass. Archives, vol. 108, p. 23.*

The messengers took with them on their journey to Quebec copies of Dudley's previous letters of April and August and also the following, which is not preserved in our state archives but is here translated from the French version in the collection of manuscripts hereinbefore referred to:—

Sir:—

"Boston, December 20, 1704.

The enclosed were sent you some time ago by way of Albany; but fearing lest they may have miscarried I send you now Mr. Livingston and Shelden envoys with John Wells.

Their commission is to carry this letter to you and to inform you that I have in my hands about 150 prisoners, besides those whom I sent to Europe, by their own choice. On the return of my envoys with a list of my prisoners whom you have in your hands, I will willingly have yours conveyed this spring as far as Penobscot, and I believe that it is best that the English prisoners should come there, because the largest number of yours being from Port Royal, they would be nearer their homes if the exchange were made there or near the Bay of Fundy.

If the winter is so severe as to oblige my envoys to stay until the inclemency be past, you could before then, if you think it proper, send me a letter by an Indian, to the fort at Casco Bay, and therein set the time and place where one of my shallops may meet yours to make the exchange. I suppose he will be there before the winter permits yours to come down.

You will have the goodness to allow my envoys to return as soon as it is safe to do so, with your conclusions concerning this business, to the end that I may hold your prisoners ready for delivery on receipt of your answer to what you receive from me, and to grant them the opportunity for the fullest conference with you in order to determine what may be most advantageous. I am with all respect, sir,

Your very humble and very obedient servant,

DUDLEY.

P.S. About ten days ago the Sieur Allain arrived with my lord Cornbury. Her Majesty's governor of New York. He informs me that, being sent by the Sieur Brouillon, he was unhappily taken by the frigate *The Jersey* and carried directly to York, and that he had lost all the papers he had for me.

Be that as it may, having known him previously, and judging him to be an honest man, I have lodged and provided for him according to his station, and shall send him home by the first opportunity." — *Vol. II, p. 426.*

* A proposition by Dudley, subsequent to those letters, to send messengers to Quebec by way of the river St. John failed to receive the approval of the Council, as stated in the note to the private act aforesaid.

† Wells appears to have held only the position of attendant or servant of the others.

‡ See note to resolves, 1704-5, chapter 43.

§ *Ibid.*, chapter 101.

Before the despatches mentioned in the note to the private act aforesaid were received by the Governor he had been informed of the progress of the messengers, as appears by the following item in the News-Letter:—

“*Boston*, Our Governour has had Letters of the 8th of *February*, via *Albany* from the Messengers sent by His Excellency to *Quebeck*, in order to exchange Prisoners, who were then within a few days of *Montreal*.”—*No. 50. March 26 to April 2, 1705.*

They reached *Quebec* by the twenty-sixth of *February*, and a month later *Vaudreuil* prepared the following reply to *Dudley*:—

Sir:—

“*Quebec*, *March 26, 1705.*

Mr. Livingstone, your envoy, has delivered me the letters which you took the trouble to write me on the tenth of *April*, the twenty-first of *August* and tenth* of *December* of last year.

By your first, sir, you tell me that in this present war you always expected all sorts of hostilities on my part, but that you would never have believed that things could have been carried so far as the cruelties that have been perpetrated by the French and Indians.

With regard to the first article, you are not mistaken; but as to your reproaches concerning the great cruelty which we practise towards your prisoners, they have never gone so far as to assassinate anyone† in cold blood after having promised quarter, as the commander of your fleet on the way to *l'Acadie* did to the *Sieur Gourdault*‡. As for the second article touching the severe treatment of your people in captivity here *Mr. Livingstone* and those who accompanied him will be able to give you an account of the way in which your people are treated in my government.

In the same letter, sir, you charge that I permit a traffic in your prisoners to be carried on between the French of this government and the Indians; and [aver] that such a proceeding will never be approved by Christians nor by any body else in *Enrope*. Apparently you have not been informed of the obligation to me of nearly all your prisoners for having furnished them the means of escape from the hands of the Indians, and in thus setting an example to the principal officials of this country.

Mr. Livingston can tell you what he has heard from the prisoners.

If you refer me to the manner in which you have treated our French prisoners, I ought not to expect great exactness in the exchange which you propose. The *Sieur de Brouillan*, giving me an account of his negotiations with you, told me that for seventeen English which he returned to you, you have given up but ten Frenchmen; besides, that you were unwilling to surrender *Baptiste*,§ whom you took even before the declaration of war because, under the order which he had from the *Sieur de Brouillan*, he had seized one of your ships which was trading within our limits without permission. So, since he only did his duty, I am very sorry to say to you that it is useless to talk of exchange if he is not included in it.

In your second [letter] you state that you are surprised to learn that our Indians are so completely the masters that to them are attributed all the cruelties that are committed. You know, as I do, that when they are superior in numbers, they always show their savage nature.

In the same letter, of *August 21*, you seem to desire an exchange with me as you did with the *Sieur de Brouillan*, and say that if you could be assured that all the English prisoners would be restored, you would release the French. I have made the same proposition to *Mr. Livingston*.

I have no reply to make in regard to the money which you tell me was given to the Indians for English scalps; because if my predecessors allowed it to be done, they only followed the example of yours.

I received, sir, your third [letter] at the time I received the two others above mentioned; not having received any by way of *Albany*.

I gave such a reception as might be expected of me to a person who comes from you. *Mr. Livingstone* is a very courteous man; with whom I should soon have agreed in the matter of the exchange if his authority had not been limited. He had decided to go back, but was assured that the thaw would prevent his going through to *Boston*. I have given him an Englishman to attend him.

I did not expect to learn, by the list of French prisoners that was sent to me, that sixteen inhabitants of *Port Royal* had been shipped to *England* or *Barbadoes*. I could have done the same for the French Islands in *America*. I am persuaded that you will not have allowed them to disembark without taking sureties for their return. I beg you to point out to me how I can depend on them.

If you were the sole ruler in *New England* as I am here, I would not have hesitated to accept your word and it would also have been a pleasure to me to return all your prisoners by *Mr. Livingstone*; but as you have a council, which is often divided in opinion, and where you have nothing more than your vote, you ought not to take it ill that I must have assurances for the return of the prisoners coming to me, the more so because on my side, being the sole master, I am always in a position to keep my word.

I beg you to allow the Englishman whom I send you and my two men to return as soon as may be with the decision which you shall make, to the end that if my conditions suit you I may hold your prisoners in readiness to leave with *Mr. Livingstone*.

I did not fail to honor the letter of credit which *Mr. Livingstone* had for his outfit here, in the sum of 2000 French livres, which you will see, sir, by the bills of exchange that he gave me; and I will let him have a larger sum if he needs it.

I am, with all respect, Sir,

Your very humble and very obedient servant,

DE VAUDREUIL.”—“*Col-*

lection de Manuscrits,” etc., vol. II., p. 428.

* *Sic*: old style?

† “*Elles n'ont jamais été jusqu'à assassiner personne,*” etc., is the text.

‡ See reference to *Church's* explanation of this affair in the note to chapter 13, *ante*.

§ See note to chapter 13, *ante*.

This letter, as appears on its face, was not intended to be brought back to Dudley by Livingston and his companions; but was intrusted to Mr. Samuel Hill (an English captive who had been taken prisoner at Wells in August, 1703) and two Frenchmen named Dubois, whom M. de Beauharnois, the intendant at Quebec, had deputed to accompany him.

Before Vaudrenil's messengers had been heard from in Boston he despatched to Pontchartrain, the minister of marine at Paris, a letter, of which the following is a summary:—

“Quebec, May 5, 1705.

Mr. Dudley, governor at Boston, has sent Captain Livingstone to propose an exchange of prisoners, to which he [Vaudrenil] has consented on condition that the Sieur Baptiste and other inhabitants of l'Acadie, borne on the list which he [Dudley] sends him, shall be sent back to the Sieur de Bronillan at Port Royal; after which he will give up the prisoners from Quebec.

He [Vaudrenil] believes himself compelled to act thus, because the English have detained the Sieur Allain, (whom the Sieur de Bronillan had sent to Boston with some English prisoners to exchange for French) under the pretext that he had been taken by one of the queen's frigates, and that he had no passport.

Nevertheless Mr. Dudley writes that, knowing him to be an honest man, he will return him.

Monsieur de Beauharnois has sent two Frenchmen and one Englishman to Mr. Dudley through the woods to inform him of the arrival of Mr. Livingstone at Quebec, and his plans.” — *Ibid.*, p. 431.

Hill and his companions, in their journey “through the woods,” reached Portsmouth on the eighth of May, as appears by the following item in the News-Letter:—

“*Portsmouth, N. Hampshire, May 11.* Samuel Hill of Wells (who was taken captive by the Indians) came hither * on Fryday night, last from Quebec with two French men sent by the Governour of Canada, who brought Letters from him and Capt. Livingstone to His Excellency our Governour; Capt. Livingstone arrived there the 26th of February, and designs to be back the 20th. of this Month, with the Governour of Canada's proposals for Exchange of Prisoners: There is 100 of our Captives in the hands of the French, and about 70 Children with the Indians.” — *No. 56. May 7 to 14, 1705.*

The satisfaction which the prospect of a speedy return of the English captives in Canada diffused throughout the province may be inferred from the following paragraph, written by a contemporary historian:—

“May the 4th, 1705, Capt. Hill, who was formerly taken at Wells and carried to Canada, was from thence sent by Monsieur Vaudriell, to concert the exchange of prisoners, who advised of one hundred and seventeen that were then with him, and about seventy more with the Indians; which unexpected news was very reviving to the dejected spirits of their mournful friends, considering the many deaths they escaped in their captivity.” — *Pennallow's Indian Wars*, p. 58.

Besides Vaudrenil's reply above printed Hill brought letters, two of them § explaining Livingstone's delay, and promising that, on his return, he should be accompanied by M. de Courtemanche, as envoy. All these despatches, as the following entry shows, Dudley promptly communicated to the Council:—

“May 15, 1705. His Excellency communicated to the Council a Letter from Mr Vaudrenil Govt for the French King at Quebec.

As also two letters from Messrs Livingstone & Shelden Messengers from this Government to Negotiate about the exchange of Prisoners, with the Propositions made in that affair.” — *Vol. 4, p. 170.*

Sixteen days later (May 31, 1705), the Governor in his opening speech communicated these despatches to the Assembly, as shown in the following extract:—

“I have also Letters referring to the prisoners in the Enemy's hands from Monsr Vaudriell Governour of Quebec and Messings coming with my own to Settle that matter which I shall communicate to you.” — *Mass. Archives*, vol. 108, p. 28.

No record of further proceedings has been discovered until after the return of Livingstone and his associates,† bringing with them a distinguished personage, the Sieur de Courtemanche,‡ who came as the representative of Vaudrenil.

The narrative of the proceedings that related strictly to the exchange of prisoners is continued in the notes to chapters 13 and 15, *ante*.

Tidings of the arrival of Livingstone and his companions at Northampton reached Hartford on the last of May, as appears by the following letter from Richard Lord communicating the news to Livingstone's wife:—

“HARTFORD, May 31, 1705.

MADAM,—I this moment received the joyfull news of your spouse and our frinds return from his noble enterprise unto the town of North Hampton, with 4 of the captivated, viz: 2 of Deacon Shelden his children, one of Mr Williams children, and a young woman, wife to one of the sons of said Shelden; also 2 French gentl, one of them y^e 2^d person of honnr! in y^e Governmt. We heartily congratulate his safe return so farr and pray that the like favor may be shewn him till he shall arrive unto your embraces. Pardon me this scrible,

* They came from Caseo in the shallop commanded by Jonathan Boaden, “taken up” for the purpose by Colonel John March on the second of May. See *resolves*, 1706-7, chapter 124, and note.

† Thus announced in the Boston News-Letter of June 4 to 11, 1705, No. 60:—

“Capt. John Livingstone with the other Messengers sent by His Excellency our Governour, to the Governour of Cannada at Quebec to concert the Exchange of Prisoners, returned this day, with whom there came Capt. Cortemange, from the Governour of Canada, in order to settle the same.”

‡ Some account of the attentions shown to Courtemanche in Boston and Cambridge is given in the note to the private act heretofore referred to. § Now in the Boston Public Library.

being butt a minute afforded me. My sincere regards to his Hon^r & Madam Winthrope. Accept the same to y^r self, from
Yo^r assured frind & humble serv^t.

R^d LORD." — *Win-*

throp Papers, part V., p. 296.

Some time later, apparently, Mrs. Livingston received the following letter from Rev. John Williams, the captive minister of Deerfield:—

"MADAM,—I should be guilty of ingratitude if I should forget to offer you my thanks for your denial of yourself the desirable company of your beloved consort for the sake of poor captives, and I assure you I shall never forget your charity herein, & hope that God will safely return him again & make you mutually joyfull & happy. There are hundreds here that are obliged to yourself. I hope to have the honour of kissing your hand & of a personal acknowledgment of your compassionateness herein. I wish you all happiness & am, Madam, Your most humble & obedient Servant,

JOHN WILLIAMS.

QUEBECK, April 21. 1705." — *Ibid.*

Upon the arrival of Livingston at Boston, Dudley wrote to Governor Winthrop, as follows:—

"BOSTON, 4 June 1705.

S^r,—I have your letter the last post & should have desired the instant advance of the scout, but Captain Livingston is happily arrived this evening & acquaints mee that there is nobody at Coasset. He has brought with him a messenger from Mr Vodril to agree the exchange of prisoners & I hope I shall bring it to pass. I was much troubled at the last clause of your letter referring to your own want of health. I pray God send it you for my short time & for the service of your country.

I am S^r your very humble servant,

J. DUDLEY." — *Ibid., p. 295.*

More than two weeks later Livingston thus replied to his father-in-law:—

"For the Hon^{ble} Maj^r Gen^l J^{no} Winthrop Esq^r Gov^r of her Maj^{ty} Colloney of Coneticut, att New London.

BOSTON, y^e 20th of June 1705.

HON^{BLE} S^r,—I received your Hon^rs lett^r Pst y^e post, and am glad to hear of your Hon^rs helth. My spouse arrived here y^e last Wedensday about 10 a clock att night, and is well att present. I have not finist my bussinish with y^e Gov. and Councell as yett, but bleve itt will be made an end of in a shorte time; for y^e French gent^l deseysers to sett out from hence for Canada a Thursday or Friday next. I bleve there will bee no exchange of prisoners, for he demandes Bassett,* and y^e Gov^r wont relese him; which is y^e onley thing that hinders. Here is no news att present. His Excellency sendes his humble regards to y^e, with Cap^t Cortemange & Cap^t Vetch, who thanck your Hon^r for being mindfull of them in your lett^r to mee. Pray my duty, togeth^r with that of my spouse, to y^e Hon^r and mother, and where itt is dew. And so I remain

Your Hon^rs most dutyfull sonn, whilst

J^{NO} LIVINGSTON.

If any news presentes, shall send to y^e Hon^r." — *Ibid., p. 297.*

By the terms stipulated between Livingston and Dudley the former was to receive one hundred pounds besides his expense. The cost of subsisting the messengers out and back, and the sums paid for the redemption of the four captives they brought with them on their return, were probably their principal expenses, and it was more convenient to defray the latter by drawing bills of exchange, or by incurring credit with the authorities in Canada.

The messengers' accounts of expenses have not been discovered, but it appears that such accounts were rendered and submitted to the scrutiny of the committee of the Council mentioned in this chapter. The following is the record of the appointment of this committee:—

"June 6, 1705. Elisha Hutchinson, John Foster, John Higginson & Andrew Belcher Esq^{rs} are appointed a Committee to receive examine & report the Accounts of Expence of Cpt. Livingstone & M^r Shelden late Messengers to Quebeck & to do it with all Speed." — *Council Records, vol. VIII., p. 122.*

The votes of advice and consent for the payment ordered by this chapter are as follows:—

"June 30, 1705. Pursuant to a Resolve pass'd by the General Assembly at their Session begun May 30th 1705. That the sum of three hundred sixty eight pounds, sixteen shillings and eight pence be paid out of the publick Treasury in full for accompt of four thousand Livers taken up of M^r Vandrenil Govern^r for the French King in Canada, upon the Credit of this Government by Cap^t Livingstone and M^r Shelden late Messengers to Quebeck; and for four hundred twenty six Livres more, for which the said Livingstone hath also drawn Bills.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of Three hundred sixty eight pounds, sixteen shillings and eight pence to Andrew Belcher Esq^r Commissary General; he to advance and pay the same to M^r Courtemanch Commissioner hither from M. Vandrenil, and to take up the Bills for the whole Four thousand four hundred twenty six Livres, endors'd by the s^d Courtemanch, being already Endorsed by M^r Vandrenil." — *Executive Records of the Council, vol. 4, p. 189.*

"July 16, 1705. The Committees of the General Assembly upon the accompts of Cap^t John Livingstone late Messenger to Quebeck, Reported the state thereof, whereby he falls indebted to the Province twenty two pounds three shillings and two pence, which was received, read and ordered a Copy to Captain Livingston if desired.

* Sic: Baptiste.

The said Committees upon the accompts of Mr John Shelden late Messenger with Captⁿ Livingstone to Quebec and John Wells who attended them, Reported the state thereof, whereby there is due to the said Shelden for ballance, four pounds, nine shillings and two pence, and to the sd Wells for Ballance the sum of sixteen pounds, fifteen shillings and ten pence, which were accepted. — And

Advised and Consented That a Warrant be made out to the Treasurer to pay the said several sums resting for ballance to the said Shelden & Wells respectively." — *Ibid.*, p. 197.

The warrants drawn in conformity to these orders appear in the province treasurer's accounts* to have been duly paid.

In addition to the foregoing there are on record the following orders for warrants to the province treasurer to pay the Commissary-General for expenses incurred by the messengers for the subsistence and wages of sundry persons in Brookfield, Deerfield and Hatfield (probably those who attended upon them as their escort), and for the entertainment of the messengers of Courtemanche, and of their attendants, while in the province on the business of the commission :—

"June 22, 1705. An Accompt current arising from three particular accompts examined by the Commissary General and lodged in his Office of sundry persons in the Town of Brookfield for Wages &c, of sundry persons in the Town of Deerfield, and of Samuel Partridge Esq^r Bill of Hatfield for Provisions &c delivered, Captⁿ John Livingstone to Canada from October 20th to the 31st of January 1704 amounting to the sum of two hundred and eight pounds, eleven shillings and two pence, was presented and read — And

Advised and Consented, That a Warrant be made out thereon to the Treasurer to pay the above sum of Two hundred and eight pounds, eleven shillings and two pence to the sd Lieut Col^l Partridge accordingly, on behalfe of himselfe and the other persons in the sd acct named." — *Ibid.*, p. 183; and see Mass. Archives, vol. 122, p. 250.

"Sept. 20, 1705. An Accompt was presented by Andrew Belcher Esq^r Commissary General of Expences by sundry persons for the entertainment of Captⁿ John Livingstone and Mr Shelden late Messengers to Quebec, and of Mr Courtemanche late Agent from the Govern^r of Canada about the Exchange of Prisoners, and his attendants during their being within this Province, amounting to ninety six pounds, fifteen shillings.

Advised and Ordered. That the Commissary Gen^l do pay the several persons in the said accompt named what is respectively due to each of them accordingly; and also that he pay the sum of six pounds to Captⁿ John Ballentine for his service in his care and attendance on the said Mr Courtemanche during his abode here. And bring the said whole charge to the Province in his Accompt." — *Ibid.*, p. 218.

Chap. 37. This chapter is from council records, vol. VIII., p. 131. It is preserved in archives, vol. 62, p. 497.

The progress of the committee appointed by resolves, 1704-5, chapter 78, to dispose of the old Province Galley and build a new ship of war or galley for the province is thus reported in the Governor's speech to the Assembly at the opening of the first session this year (May 31, 1705) :—

"... The Gentlemen of the Committee for the building of the new Province Galley will Acquaint you of their good proceeding in that Affair, the Galley being in all points fit for the Service, and now at Sea. . . ." — *Mass. Archives*, vol. 108, p. 28.

The following account, submitted by the committee, was read in the Council, approved and sent to the representatives on the fifteenth of June :—

"Her Majesties Ship New Province Galley to Sundry person's . . ."		Dr	
No			
1	Joshua Gee Builder for y ^e Hull	£949	5 10
2	Joseph Belknap for springskins	1	11 .6
3	John Brewer &c ^a . Riggers	3	.2 . .
4	David Norton for Carriages	13	19 .6
5	Benja ⁿ Brown's for Oar's	7	.2 .6
6	William Partridge Esq ^r for Ditto	10	16 .8
7	Nic ^o Hopein &c ^a Riggers	19	.9 .6
8	John Borland for Sandries	19	.5 .9
9	John George's	45	.3 .6
10	Samuell Bayley's	14	19 .7
11	Epharim Hunts Smith's	281	17 .3
12	Benja ⁿ Halawell's	4	.6 .2
13	Nath ^l Wheelar Smith	3	16 .1
14	Andrew Cunningham's Glazier's	2	17 .4
15	Joseph Lowels	3	.1 . .
16	John Foy Junr's 2 Bills	22	. . . .
17	James Russell Esq ^r	17	.2 . .
18	Ad ^r Bulfinch	16	.3 . .
19	Samuell Wentworth's	1	.2 . .
20	Cyprian Southack's	29	.3 .9
21	Thomas Clarkes	4	.8 .5
22	James Barton	86	14 .6
23	John Enstis	9	17 .4
24	James Hawkins	1	. . .9
25	John Enstis	1	14 . .
26	Henry Wakefield & Brown	45	19 . .

* Mass. Archives, vol. 122, pp. 253, 254.

N ^o 27	John Smith's . . . . .	..	7	..
28	Samuell Greenwood	20	..	.8
29	David Copp	3	.5	..
30	Joseph Hiller	2	..	.4
31	John Gerrish	3	14	.4
32	Joanna Perry :	3	13	.8
33	Hugh Read & c ^a Riggers	10	14	.6
34	Benja Mors	4	.6	..
35	Jonathan Adams	52	.7	.4
36	George Robinsons	30	.5	10
37	Joseph Allen's	5	..	..
38	Alexr Miller's	1	.1	..
39	John Mico's	128	.3	.9
40	Andrew Belcher, Esqr ^t	907	.8	.7
	Nath ^l Shannon, Selling y ^e old Galley . . . . .	..	.6	..
	Henery Francklyn for Wine at y ^e sale . . . . .	..	.2	.6
	A Book to Keep y ^e Accot ^s of Said Ship . . . . .	..	.2	..
		£2788	14	.5

	170 $\frac{1}{2}$ Contra		Cr	
Jan ^y 20	— By a Warrant of his Excellency in Council Dated Dec ^r 30 th to the Treasurer for	2000	..	..
April 24	: By the Old Province Galley Sold for	410	..	..
	Rest to Ballance	378	14	.5
		£2788	14	.5

Boston the 15th June 1705.

The Senerall Articells in this acct have ben Exam^d And are right cast, but Cap^t Cypran Southwack that received the stores was by his Exclenys Ord^r Sent to Sea On Speciall Occasion before he had Signed Some of the Tradsmens bills, we hope when s^d Southwack com's there may be some small abatement on the same which shall be made good in the future Expence of s^d Gally the Ballance due as aboves^d is Three hundred Seventy Eaight pounds fourteen shill 5^d

JOHN PHILLIPS

JOHN FOSTER

SAM^l LEGG

AND^r BELCHER." — *Ibid.*,

vol. 62, p. 497.

On the twenty-ninth, in the House, the foregoing account was read and approved, and this vote of approval appended to the account being concurred in, was recast by the Secretary, when he made up his records, into the form of this chapter and chapter 39, *post*. The first appropriation credited in the account was paid agreeably to the warrant issued upon the advice and consent of the Council, as follows, in which appear some particulars not elsewhere mentioned :—

"Dec. 13, 1704. The Committee appointed to Treat and agree for, and oversee the Building and fitting out a New Ship or Galley for the use of the Province, and to employ and lay out the money granted for that use, reported their contract with the Builder, viz^t for a Vessel of seventy two foot keele Twenty four foot Beam, nine foot and a halfe hold, with Eighteen Gun Ports, at the Rate of four pounds p^r Tun, proposing that one foot more may be added to her breadth, and six inches to her depth.

Which Report was read and accepted, and the Committee are desired to proceed according to their proposal therein — And.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the sum of Two thousand pounds, granted by the General Assembly for the building and fitting out a new Ship or Galley for the use of the Province, to Andrew Belcher and Samuel Legg Esq^rs two of the s^d Committee, to be laid out and Employed accordingly." — *Executive Records of the Council, vol. 4, p. 126.*

By the province treasurer's account* it appears that the above amount was paid. The balance of £378 14s. 5d. remaining due by the foregoing account was ordered to be paid in chapter 39, *post*.

The launching of the Galley and the prospective time of her beginning a cruise are thus announced in the News-Letter :—

"Boston, On Monday last [April 2] was Launched here, The Province Galley, who will be ready to Sail a Cruising in 4 or 5 days." — *No. 51.*

The executive records of the council contain the following entry of the appointment of a chaplain :—

"April 11, 1705. Advised. That Mr Peter Thacher Minister be employ'd as Chaplain on board the Province Galley." — *Vol. 4, p. 165.*

The workmen engaged on the new Galley were spurred to increased activity by a report that some fishing shallops had been chased into Cape Ann, and that a ketch starting on a voyage had put into Salem Harbor bringing the news that she had sighted two vessels off the coast, which were believed to be French privateers. These reports had been communicated to the Council by the Governor on the sixth, as appears by the following entry :—

"April 6, 1705. His Excellency Communicated to the Council a letter from Colonel Hathorne and another from Major Sewall of Salem, to acquaint his Excellency, that on the 2^d current some Fishing shallops were chased by a vessel into Cape Anne; & that on the 4th current a Ketch bound out to sea, saw two Vessels lying by off Cape Ann and the wind coming contrary the said Ketch put into Salem, gave the information of the said two Vessels, which they could not make perfectly, the weather being Foggy, they fear they are French Privateers.

Advised. That a Well Sayleing Shallop, wth six Men and Oares be forthwith set out for a spye Boat, and to give notice to inward bound Vessels, and that the new Galley be equipped with all possible dispatch."—*Ibid.*, p. 163.

Chap. 38. This chapter is from archives, vol. 101, p. 295. It is recorded in council records, vol. VIII., p. 142.

The order which constitutes this chapter originated in the House June 28, 1705. It was passed that day and sent to the Council for concurrence, and on the next day it was read and concurred in, and consented to by the Governor.

The amount * paid on this order was embraced in a charge of two pounds, which also covered the allowance made to constable John Baker, of Boston, under chapter 74, *post*.

Both in the original order remaining in the archives, and in the legislative records of the council, the amount ordered to be paid to Richardson is twenty-one shillings, obviously an error, since the counterfeited bills were of the denomination of twenty shillings, and this is the amount actually paid by the treasurer.

Chap. 39. This chapter is from council records, vol. VIII., p. 142, and archives, vol. 62, p. 497.

The resolve which constitutes this chapter was appended to the account printed in the note to chapter 37, *ante*.

The order in Council † for the payment of this allowance was passed July 9, 1705, and the province treasurer's account ‡ shows that it was duly paid.

Chap. 40. This chapter is from council records, vol. VIII., p. 142. It is preserved in archives, vol. 71, p. 141.

The contest between the Council and the House concerning the continuance of the establishment of wages for the officers and men of the garrison on Castle Island, § and consequently the right of the Governor and Council to draw warrants for the pay of the lieutenant upon that basis, was not settled in the spring of 1705. Dudley insisted that the act was still in force, and that the representatives could not reduce the pay without new legislation, which would require the concurrence of both branches and the consent of the Governor. The following entry in the executive records of the council, however, indicates that the Board was disposed to yield to the claim of the House, or, at least, not to proceed hastily against the judgment of the representatives:—

"April 17, 1705. A Muster Roll of the Garrison at Her Majesty's Castle on Castle Island, containing an account of their pay for three Months past was Offered with the Lieutenants pay open. Upon the question put, whether the pay for the Lieutenant performing the duty of Lieutenant & Gunner, be filled up according to the Establishment? It was carried in the Negative and Advised that it be deferred until the setting of the General Assembly."—*Vol. 4, p. 167*.

According to Sewall, || the Governor, after this negative by the Board, refused to consent to the quarterly pay-roll of the garrison, thus suspending payment of the wages of the common soldiers, although he appears not to have withheld his consent to warrants for defraying charges for subsistence of the garrison. ¶

Upon the assembling of the General Court in their first session this year Lieutenant Tuthill, without alluding to any claim he might have under the establishment of wages, filed the following petition to be allowed for his services as bookkeeper and accountant for the engineer, Colonel Römer, during a part of the time that the latter was engaged in building the defensive works on the Island:—

"To His Excellency Joseph Dudley Esq^r Capt Generall & Gov^r in Cheife &c: and the Honourable Councill, with the Honourable the House of Representatives of Her Maj^{ties} Province of the Massachusetts Bay in Generall Court Assembled.

The Humble Petition of Zech^r Tuthill Leint: at Her Maj^{ties} Castle on Castle Island near Boston

Humbly Sheweth

That whereas Yo^r Petitioner in Obedience to His Excellencies Com^{ds} was Assisting to Coll^l Römer at the s^d Castle from the 12th day of August 1703. to the 26th day of November next following, and did there diligently and Constantly attend the s^d Service, and have not been allowed any thing for the Same, Did therefore at the Close of the Last Assembly, Humbly pray leave that it might bee laid before the Honourable the House of Representatives, but that Session being very short, their Hon^{rs} could not consider thereon, Yo^r Petitioner therefore humbly pray's leave, to Renew his Petition to Yo^r Honours, beleiving he shall receive the Same Bounty and Justice from the Honourable House, As Yo^r Hon^{rs} have been pleas'd to Express to Other G^{ts} on the like Service. And Yo^r Petitioner would further humbly pray leave to acquaint the Honourable House, that it is now near Eighteen months, since he rec^d His Excellencies Com^{iss} for Leint here, in which time he has

* Mass. Archives, vol. 122, p. 257.

† Executive Records of the Council, vol. 4, p. 196.

‡ Mass. Archives, vol. 122, p. 254.

§ See note to resolve, 1704-5, chapter 32.

|| "April, 17, [1705] Council; Capt. Tuthill's Allowance of 80.£. would not pass: so Gov^r would pass none of the Quarter-Roll for the Castle."—*Diary*, vol. II., p. 125.

¶ Executive Records of the Council, vol. 4, p. 165.

only recd the Sum of forty pounds, and Yor Petitioner is Informed that the Gift: His Prædecessor was allowed Eighty Pounds p annum for the same service, therefore hopes for Yor Honrs favour herein Beleving the Honourable House upon Enquiry will find. Yor Petitioner has been both faithfull and Diligent to the Trust reposed in him, and Yor Petitioner hopes he shall continue in a faithfull discharge of his duty, and doubts not of Yor Honrs Favours, And shall as in Duty bound Ever pray.

At Her Maties Castle June 9th 1705
Archives, vol. 71, p. 140.

ZECA TUTHILL."—*Mass.*

This petition was read in the Council on the twenty-first and sent to the House "for consideration." On the twenty-second it was read in the House and committed. On the twenty-seventh the resolve which constitutes this chapter was passed, probably as it was reported by the committee, and sent to the Council for concurrence. It was concurred in on the twenty-ninth, and consented to by the Governor.

On the same day an attempt was made to establish for the lieutenant of the Castle a lower rate of wages than had been hitherto paid. This was sought to be accomplished by a resolve for separating the functions of the lieutenant and the chief gunner. This resolve, which follows, passed the House, but failed because the representatives would not agree to the proposal of the Council to substitute sixty pounds for fifty pounds as the lieutenant's pay:—

"In the House of Representatives. June 29: 1705

Resolved That there be allowed, and Paid out of the publick Treasury after the Rate of fifty Pounds, to Capt Zechariah Tuthill, the Lieutenant of the Castle, for the year current, commencing from the time to which he was last paid, And that the said Tuthill, be not Allowed, any thing as chief Gunner, this House apprehending it very unsafe, that two such important Offices in the sd fortification should be sustained by one & the same person.

Sent up for Concurrence.
p. 156.

THOMAS OAKES Speaker."—*Ibid.*,

The same division of functions was again attempted, to continue "for and during the present War with france, and Spaine," by chapter 94, *post*, and the same chapter ratified, in terms, the provisions of a resolve passed on the thirtieth of June for increasing the pay of William Barnsdale, the chief gunner, who, the year before, as gunner's mate, had been recommended by the Council for increased pay, "to encourage his Stay there, He being a good Officer."* This latter resolve, which failed for want of the Governor's consent, is given below:—

"In the House of Representatives. June ult

Resolved That the sum of Forty Pounds, be allowed, and Paid out of the publick Treasury, to Mr William Barnsdale for his service as chief Gunner of the Castle, for the year current, to begin, from the time, to which he was last paid.

Sent up for Concurrence.

THOMAS OAKES Speakr

In Council. June ult. 1705./.
Read and Concurr'd.
p. 160.

ISA ADDINGTON Secry."—*Ibid.*,

To chapter 94, however, Dudley was equally averse to giving his consent, and he seems never to have signed it; but when the next pay-roll was made up in January, 1705–6, in which the lieutenant's pay was fixed at the rate of sixty pounds per annum, the Governor signed the roll under protest, thus practically consenting to this provision of that chapter.

The order in Council† for the payment of the allowance granted by the present chapter was passed July 9, 1705, and the province treasurer's account‡ shows that it was paid.

Chap. 41. This chapter is from council records, vol. VIII., p. 142. It is preserved in archives, vol. 71, p. 157.

An account of the attack on Lancaster July 31, 1704, is given in the note to resolve, 1704–5, chapter 71. From that time forth until after the harvest, guerilla parties of the enemy were hovering on the frontiers, allowing no relaxation of vigilance in the several garrisons. From a too hasty yielding to the impulse of fear on the part of one of the garrisons at Lancaster the Rev. Andrew Gardner, minister of the town, lost his life October 26, 1704.

The following items in the News-Letter give the particulars of this unfortunate affair as gathered at the time, apparently from the most authentic sources:—

"On Thursday night the Reverend Mr. Gardner, Minister of Lancaster was unfortunately Shot by the Sentinel on the Watch, supposing him to be an Indian climbing over the Walls of the Fortification; of which Wound he dyed in an hours space or little more."—*No. 28. October 23 to 30, 1704.*

"Boston, In our Numb. 28. As we then received it, we gave you the Account of the Death of the Reverend Mr. Gardner, Minister of Lancaster; and having since had a perfect and exact Account of the same, from Eye and Ear Witnesses; we thought it expedient to insert it here, to prevent various reports thereof: And is as follows

"That a man being Killed the day before betwixt Groton and Lancaster, and the Indians having been seen the night before nigh the Town) Mr. Gardner (three of the men belonging to his Garrison being gone out of Town, and two of the remaing three being tyred with Watching and Travelling in the Woods after the Indians that day) being a very careful as well as courageous man, concluded to Watch that night himself; and accordingly went out into the little Watch-house that was over one of the Flankers, and there stayed till late in the night, whence and when he was coming down (as it was thought) to warm him, the man that shot him, who was not long before sleeping by the fire, came out, and whether between sleeping and waking, or surprized with an excess of fear, fired upon

* November 13, 1704. Council Records, vol. VIII., p. 87.

† Executive Records of the Council, vol. 4, p. 195.

‡ *Mass. Archives*, vol. 122, p. 249.

§ Samuel Prescott: the coroner's inquest is in Suffolk Court Files.

him as he was coming down out of the Watch-house through a little Trap door into the Planker, where no man having the exercise of his Reason could suspect the coming of an Enemy, or suspect him to be so, when in a clear Moon light night he was so nigh him, Mr Gardner (though his Wound was in his breast being shot through the Vitals) came to the door, bid them open it for he was wounded; after he came in he fainted away, but coming to himself again, asked who it was that Shot him, and when they told him he prayed God to forgive him, and forgave him himself, for he believed he did not do it on purpose; and with a composed Christian frame of Spirit desired them that were bitterly lamenting over him, not to weep but to pray for him, and comforted his sorrowful Wife, telling her he was going to Glory, advising her to follow him; and in about an hour Dyed, leaving his sorrowful Friends to lament the loss of so worthy and desirable a Person." — No. 31. November 13 to 20, 1704.

This chapter was passed in response to the following petition:—

"To His Excellency Joseph Dudley Esqr Governour, the Honorable council and ye Representatives siting in Boston June ye 29 1705

The humble petition of Mary Gardner of Lancaster

humbly sheweth

That whereas there was yesterday an account laid before ye Court signed by ye worshipfull Colonell Tailor of money dew to me from ye country for entertaineing of souldiers & damage done by their horses who at coming up to Lancaster when ye attaque was made upon it by ye enemy, who in a hurry put theare horses in to a field of ry where by an acre was immediately destroyed, For which damage & entertaineing of soulders this honorable house saw cause to allow me but fiftene shillings when besides that, they drank a barell of boyled Cyder & a barell of strong bear, Besides M^r Gardner his going out Chaplin with ye army in that expedition after ye Enemy for all which we have Received nothing Your humble petitioner being a desolate widdow prayeth y^e Justice may be done her & that she may have Dew recompence for those things which y^e country is more able to bare then her self who hath always bin & is redy to undergoe any trouble laid upon her for y^e service of y^e country Your Granting my petition herein will Grealy oblige your Humble petioner

MARY GARDNER." — *Mass.*

Archives, vol. 71, p. 157.

The resolve which constitutes this chapter passed through all its stages and was consented to by the Governor on the day it was first read in the Council.

The order in Council* for the payment of this allowance was passed July 9, 1705, and by the province treasurer's account† it appears to have been duly paid.

Chap. 42 This chapter is from archives, vol. 3, p. 414. It is recorded in council records, vol. VIII., p. 143.

On the twenty-eighth of December, 1704, the following petition for an abatement of the taxes on the town of Kittery was read in the Council, but no further action upon it has been discovered:—

"To: His Excellency Joseph Dudley Esqr Cap^t Gen^l & Govern^r in Chief in and over her Ma^ts Province of y^e Massachusetts Bay &c.—together with y^e Hon^{ble} y^e Council and memb^rs of y^e house of Representatives in Gen^l Court Assembled

The Petition of y^e Selectmen of y^e town of Kittery in behalfe of their s^d Town humbly Sheweth, that whereas at y^e Gen^l Assembly in May Last there was a Tax Set upon s^d town of one hundred pounds in mony which tax wee haue Assessed on y^e Several Inhabitants of our s^d town but haue not as yet Comitted it to y^e Constables According to our warra^t from Mr. Treasurer but by reason of y^e Disconragem^t wee haue from our Last years Constables wee were first willing to lay our Circumstances before this Hon^{ble} Bord, they Informe us that they haue used all means according to y^e directions in their warra^t to gether in y^e last years tax of one hundred & Sixty pounds in mony but find y^e People utterly unable to pay it in mony they haue offered their goods & Chattells at an outcry According to y^e Direction in y^e Treasurers warra^t but find none of Ability to buy, wee doe therefore humbly hope that y^e Excy and y^e Hon^{ble} Memb^rs of this Assembly will take y^e Premisses into y^e Serious Consideracon and in y^e wisdom See Cause to make Some Considerable abatem^t of our s^d taxes or at least to ord^r y^e paym^t thereof In Some other Specie Considering y^e Seat of warr is with us and y^e Burden Exceeding heanie upon us A poor Scattering people Necessitated to watch Ward Scout build Garrisons & fortifications & y^e one half of us to be furnished with Snowshoes & mogginsons and all at our own Charge and at Every Rumour or Alarm drinen from our Employ^mt whereby wee might get mony to ans^w our Publick Charges, we shall not at p^rsent mention any more of our many Impoverishing Circumstances but Expect and wait y^e favourable Ans^w wee Subscribe Yo^r Excellencies & Honor^s Most Humble & obedient Seruants

W ^m PEPPERRELL	} Selectmen of Kittery." — <i>Mass.</i>
JOHN SHAPLEIGH	
JOHN LEIGHTON	
JOHN HILL	
CHARLES FFROST	

Kittery Novemb^r ye 29th 1704

Archives, vol. 3, p. 409.

During the first session of the Assembly of 1705-6, it appears that Mr. John Leighton, the representative from Kittery, presented a similar petition, upon which the House passed a resolve for abating one-half of the arrearages of the taxes assessed upon that town. Neither this petition nor the resolve thereon, which was not concurred in by the Council, has been found in the archives; but on the twenty-ninth of June the House passed and sent to the Council for concurrence the resolve which constitutes the first paragraph of the present chapter. On the next day the Council concurred in this resolve of the House with the addition of the proviso shown in the printed chapter. On the same day the House agreed to this addition, and the resolve was consented to by the Governor.

* Executive Records of the Council, vol. 4, p. 196.

† *Mass. Archives, vol. 122, p. 257.*

In the legislative journals of the Council this resolve is twice* recorded, the only difference in the two entries, from the word "that," at the beginning of the first paragraph, being in the last word of that paragraph, which is first recorded "heathen" and afterwards "enemy."

The province treasurer's account† shows that the abatement ordered by this chapter was made to Kittery.

Chap. 43. This chapter is from council records, vol. VIII., p. 144. It has not been found in the archives.

Russell was again chosen commissioner of the impost, as shown by the following entry:—

"June 30, 1705. James Russell Esqr by the Vote of the Council & Representatives, was again elected Commissioner of the Impost for the Year ensuing."—*Council Records*, vol. VIII., p. 144.

The order in Council‡ for the payment of the allowances granted by this chapter was passed July 9, 1705, and the province treasurer's account§ shows that they were paid.

Chap. 44. This chapter is from council records, vol. VIII., p. 144. It is preserved in archives, vol. 101, p. 298.

In his opening speech to the Assembly this year (May 31, 1705), the Governor thus called attention to the need of supplying the treasury:—

"... Gentlemen, of the Representatives, Mr Treasurer will lay before you the present state of the Treasury, & the necessity of a Supply, which I desire you very early to Consider . . ."—*Mass. Archives*, vol. 108, p. 29.

Before the new emission of bills authorized by this chapter had been printed there were this year two several votes of advice and consent for emitting bills. They were as follows:—

"July 9, 1705. To Mr Treasurer Taylor to issue forth and emit Five thousand pounds of Bills, which are or shall be received into the Treasury towards payment of the Publick Debts of the Province already contracted, and the further growing charge of the defence thereof &c as he shall receive Orders or Warrants for the same made out & signed by the Governour, by and with the Advice and Consent of the Council."—*Executive Records of the Council*, vol. 4, p. 196.

"Aug. 3, 1705. Pursuant to a Resolve passed by the General Assembly at their Session begun the Thirtieth of May last, that the Treasrnr be Ordered and Impowred to issue forth and Emit the sum of Five thousand punds of Bills, which are or shall be received into the Treasury, towards payment of the Publick Debts of the Province already contracted, and the further growing charge for the defence thereof.

Advised and Consented. That his Excellency order the Treasurer to issue forth and Emit the above sum of Five thousand pounds of Bills, accordingly, as he shall receive Orders or Warrants for the same made out and signed by himselfe, with the advice and consent of the Council."—*Ibid.*, p. 204.

The act|| granting a tax as a fund and security for the bills ordered in this chapter to be emitted was passed July 13, 1706.

See, further, chapter 79, *post*, and note.

Chap. 45. This chapter is from council records, vol. VIII., p. 145. It has not been found in the archives.

In his opening speech to the new Assembly this year Governor Dudley still remained silent on the subject of his salary.

On the twenty-second of June a message was sent from the Council to the House by James Russell, Joseph Lynde, John Thacher, Samuel Partridge, John Higginson, Samuel Appleton and Secretary Addington "to move the House for a suitable and honorable allowance for the support of the Governor."

To this motion, communicated by a committee composed of the most influential and respected members of the Council, the only response was the resolve which constitutes this chapter, in which, as a gift, the usual amount was allowed. The original has not been found in the archives, so that the date of its passage in the House cannot be ascertained, but by the legislative journals of the Council it appears that it passed the Board in concurrence on the thirtieth, and that it was consented to by the Governor.

The order in Council‡ for the payment of this allowance was passed July 9, 1705.

By the province treasurer's account§ it appears that this allowance and the allowance granted by chapter 100, *post*, were paid in one sum.

A bill, in place of a standing vote first passed by the legislature of New Hampshire, October 6, 1703, for fixing Dudley's salary as governor of that province, was finally passed, and signed by him May 2, 1705. The salary settled by this act was one hundred and sixty pounds per annum.¶

Chap. 46. This chapter is from archives, vol. 40, p. 821. It is recorded in council records, vol. VIII., p. 115.

* Council Records, vol. VIII., pp. 143 and 146.

† Mass. Archives, vol. 122, p. 282.

‡ Executive Records of the Council, vol. 4, p. 195.

§ Mass. Archives, vol. 122, p. 252.

|| Province Laws, 1706-7, chapter 6.

¶ Provincial Papers of New Hampshire, vol. III., p. 308.

No action having been taken by the Assembly looking to the establishment of honorable and permanent salaries for the judges of the Superior Court of Judicature up to the date of the passage of the resolve, 1704-5, chapter 33, and the allowance granted in that chapter being unsatisfactory to the judges, they joined in the following memorial to the Legislature:—

"To his Excellency the Gov^r, the Hon^{ble} her Maj^{ty}'s Council and Representatives of the Province of the Massachusetts Bay in Gen^l Court Assembled

A Memorall of her Maj^{ty}'s Justices of the Superiour Court within the Province afores^d Humbly Offers

To be Consider^d

Whether it be not a real loss, prejudice and Dishonour to this Province to allow the Judges of the s^d Court no more then forty or fifty pounds p^{a} Annum.

Whether the Labour of the s^d Judges be not a Calling which deserveth Food and Raiment. Where as now as things Stand The necessary Expences of themselves Servants & horses being deducted; It is a Question whether any thing be left remaining

The Inconveniences following hereupon are these,

The s^d Judges are in danger of being laid open to Contempt for that the Gentlemen at the Bar, th^o the number of them be much Increased of late, receive a reward three or four times Superiour to them.

They are in danger of being Exposed to the Temptacon of Bribery, an Evil most Obstructive to the free Course of Justice.

This Renders the Judges less Capable of fitting themselves for and attending upon that Service with unwearied Diligence, making it their business: and less concerned whether they hold, or quit their Places.

The Judges have now a much harder Chapter then formerly. For the learning of the Bar is as much enlarged as the number. Many great and p^{l} exed Cases are brought before the Superiour Court (to Say nothing of Criminals either of the highest or lowest nature) Both parties by their Learned Council are Comonly long and Strenuous in their pleadings, the Judgm^t being Final, and which way Soever it goes, the Justices are Sure of being Shock^d.

Wherefore all due Encouragm^t is little En^o to fix them in a Steady and Studious Concern for and Impartial p^{f} orm^e of their duty.

All which is humbly Submitted to this Great and Hon^{ble} Court by

Yo^r most humble & Obedient Serv^{ts}

SAMUEL SEWALL.

JOHN HATHORNE

JOHN WALLEY

J. LEVERETT." — *Mass.*

Archives, vol. 40, p. 800.

This memorial was "Present^d & Read in Council"* August 19, 1704, and thereupon the Council voted their "Opinion that a further Encouragem^t be given to the Judges and Recommend it to the Consideration of the House of Representatives,"* which vote on the same day the House "Read and Referr^d to further Consideration the next session of this Court."†

On the last day of the next (third) session the following entry appears in the legislative journals of the Council:—

"Nov. 18, 1704. A Message was sent to the Representatives by Joseph Lynde, Penn Townsend, Andrew Belcher, Samuel Hayman & Samuel Legg Esq^rs to move that House for a Grant for the Support of the Governour & the Secretary, And to know what Consideration they have had of the Memorial presented by the Judges." — *Council Records, vol. VIII., p. 91.*

Upon this the House passed the following vote:—

"Nov^r 18 1704. The Question being Put whether any further Allowance to the Hon^{ble} Judges of the Superiour Court, be made for the Year past? It Pass^d in the negative."¹ — *Mass. Archives, vol. 40, p. 801.*

Towards the end of the next session (January 4, 1704-5), in the Council "A Memorial formerly presented by the Justices of the Superiour Court for Enlargement of their Salary, . . ." was " . . . sent down to the Representatives with a Message to desire a further Consideration of them by that House."‡

On the next day, in the House, "The Question being Put whether any further allowance to the Hon^{ble} Judges of the Superiour Court be made for the year past? It Pass^d in the negative."²

On the thirteenth of June, 1705, a memorial by John Leverett, one of the judges, was communicated to the Council by the Governor. It was read in both branches on the same day, as follows, but no further action was taken thereupon:—

"To his Excellency Joseph Dndley Esq^r Captain Generall & Gov^r in Chief in and Over her Maj^{ty}'s Province of the Massachusetts Bay &c in New England;

The humble Peticon of John Leverett &c

Sheweth,

That the Third year is now Expiring, since your Excellency was pleased to hon^r your Unworthy Peticon with her Maj^{ty}'s Comission to be One of the Justices of the Superiour Court within the Province afores^d, in the Execucion whereof he hath been obliged wholly to lay aside his practice at the Barr, which was profitable, and afforded him a Good Yearly

* *Mass. Archives, vol. 40, p. 800.*

† *Ibid.*, p. 801.

‡ *Council Records, vol. VIII., p. 101.*

revenue, and to apply intirely his Study of the Law to the Service of the Province; and Since for the hon^r of her Majty^s Comission has bin further Obliged to Expences as well as Travell, which the Salary assigned by the Generall Assembly to the Justices, together with all the fees andquisites of the s^d Superior Court can in no tolerable measure Support; Whereby your humble Peticon^r hath Sustained great Loss and damage, and is in danger of Exposing himself to greater Inconveniences; *Rebus Sic Stantibus*.

Wherefore yor humble Peticon^r prays, That yor Excy will be pleased to dismiss him from his further Attendance on her Majty^s Service in the s^d Court, and do as yor Great Wisdom Shall direct in filling that hon^{ble} Bench, And yor humble Peticon^r as in Duty bound
Shall Ever pray &c

J. LEVERETT." — *Ibid.*, p. 820.

On the thirtieth the resolve which constitutes this chapter was passed by both branches, and consented to by the Governor.

The order in Council * for the payment of the allowances granted by this chapter was passed July 9, 1705, and the province treasurer's account † shows that they were paid.

Chap. 47. This chapter is from council records, vol. VIII., p. 145. It has not been found in the archives.

By the entry in the legislative journals of the Council the resolve which constitutes this chapter appears to have originated in the House, and to have been passed through all its stages in both branches and consented to by the Governor on the same day.

The order in Council ‡ for the payment of this allowance was passed July 9, 1705.

By the province treasurer's account † it appears that the amount granted by this chapter and a grant of sixteen pounds by chapter 90, *post*, were paid in one sum.

Chap. 48. This chapter is from council records, vol. VIII., p. 145. It has not been found in the archives.

By the entry in the legislative journals of the Council the resolve which constitutes this chapter appears to have been passed through all its stages in both branches and consented to by the Governor on the thirtieth of June.

The order in Council ‡ for the payment of this allowance was passed July 9, 1705, and the province treasurer's account † shows that it was paid.

Chap. 49. This chapter is from council records, vol. VIII., p. 145, and archives, vol. 105, p. 51.

The following is the petition mentioned in the preamble to this chapter:—

"To His Excellency the Gouverneur & Council & The Hon^d the Gentlemⁿ Representatives of her Majty^s province of y^e Massach^{tts} Bay in New England now Assembled—

The humble petition of Mary Spark Relict Widow of John Spark Late of Ipswth Decd^d whereas my s^d Husband was Endebted unto this province a small sum of twenty shillings the great to mee being Left in a Low state & Condition as is well known to many (for Exercise In y^e Last Year of his Life) and I being utterly unable to pay it my self, & should be very sorry it should fall upon his surety w^{ch} would be bnt a hard requitall of kindness— Wherefore my humble Request is y^t you would in yor Goodness so farr Consider y^e Case of y^e Widow as to Remitt & Release y^e same—Whereby You will Engage & greatly oblige mee for yor success & prosperity Ever to pray

Ipswich. June: 18th, 1705

Yor Humble: []]

MARY SPARK." — *Mass.*

Archives, vol. 105, p. 51.

On the thirtieth the resolve on this petition was passed through all its stages in both branches, and consented to by the Governor.

Chap. 50. This chapter is from archives, vol. 71, p. 159. It is recorded in council records, vol. VIII., p. 115.

On the thirtieth of June the resolve which constitutes this chapter was passed by both branches and consented to by the Governor.

The vote of advice and consent for a warrant to the treasurer to pay for the gunpowder is as follows, and his account † shows that it was paid.

"Sept. 20, 1705. Pursuant to an Order of the General Assembly at their Session in May last, appointing a Committee to purchase forty Barrels of Gun powder for the use of the Province, payment to be made therefore out of the publick Treasury, the said Committee reported that they had accordingly purchased of Andrew Faneuil Merch^t Forty barrels of Powder after the rate of eleven pounds p^r barrel, and presented his account thereof amounting to Four hundred and Forty pounds. The s^d powder being committed into custody of Capt^e Timothy Clark at the Sconce.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the said sum of Four hundred & forty pounds to the said Andrew Faneuil accordingly." — *Executive Records of the Council*, vol. 4, p. 219.

Chap. 51. This chapter is from council records, vol. VIII., p. 146. It is preserved in archives, vol. 71, p. 155.

* *Executive Records of the Council*, vol. 4, p. 195.

† *Mass. Archives*, vol. 122, p. 252.

‡ *Executive Records of the Council*, vol. 4, p. 196.

§ *Mass. Archives*, vol. 122, p. 253.

|| Manuscript mutilated.

Less than a fortnight after the passage of chapters 13 and 15, *ante*, the advice of the House for the conditional exchange of Baptiste, in which the Council concurred, seems to have become generally known outside of the halls of the Assembly, notwithstanding the injunction of secrecy. Thereupon, leading merchants, traders, and sailors in the province united in the following address arguing against the proposed exchange:—

“ Boston June 27. 1705—

To his Excellency Joseph Dudley Esq; &c—and To The honour^b the Councill and representatives now Assembled in the Generall Court:

The Address and Petition of y^e Merchants, Traders & Sailors In y^e Town of Boston: and other's in y^e Province of the Massachusetts-Bay—

That Whereas by the Providence of God; Wee of these parts have beene hitherto Signally Preserv'd from any Attacks or Insults on our Sea: Coasts by the French, Which we Chiefly Attribute unto the Good Success Wee have had in Taking & Since by the due retention of One Baptist A pretended frenchman, Whose former Piracies, Murder's & Villanies, have beene Notorious, which together with his Circumstances, readiness, and Capacitty, of further mischief To her majesties good Subjects In these parts, The sence of which Constrains from us this our humble Application To prevent as farr as in us lies the Dangerous Consequence which will unavoidably attend his Release, Whereof wee are (to our Great Surprise & Greif) informed That your honours have in a manner Concluded: Which doubtless must arise for want of Due knowledg of these following Circumstances relating to y^e Prisoner— Which Wee here humbly Offer

1st That said Baptist is not by Birth a Subject to y^e French King, therefore cannott as such, be reclaimed by any of his Governours—

2^{dly} That in y^e Late Warr he submitted himself under the Obedience of the Crown of England, and as a Protestant was here receiv'd by the French Chh; and as Such was Imploy'd in Divers Sea Services Whereby he's become knowing in all our Coasts, harbours, and Circumstances

3^{dly} That after having remain'd with us a Considerable Time upon some disgust or rather his own Wicked Inclination Did confederate himself With some of the french Prisoners With whome he Took and Surpris'd Divers Vessells without any Commission, and having hereby Effectually recommended himself unto the French, (To whom otherwaies by his former Thefts and Piracies he Stood a Criminall) he was by the Governour of St Johns recommended unto the chief Ministers of State in France, who finding him proper to Anoy us, was Immediately prefer'd to a small ship of Warr In which (thro the Goodness of God,) he miscarried Was by us taken before he Cou'd do any thing Notable upon us on which the Peace then Immediately Ensuing Wee neglectfully omitted the due Inquiry & Punishment of his Crimes, and at the Generall release of the french prisoners he made his escape amongst them.*

4th That his Braggings and Threats, even before and since the breaking out of this Psent Warr have been very frequent and Notorious.

5^{thly} That Whether in Sincerity or Otherwaies itt matters not but so itt is, that some time since in the Last Winter he did before severall Wittnesses, as also by writing under his own hand Signify to the Governr his Solemn repentance and Greif for what he had formerly Don against our Nation & that could he be but reconciled he was willing and ready to enter into the English Service, and as a mark of his faithfullness Did then give Memoirs on Divers heads, relating to y^e Warr, offering to Prosecute them to Effect in his own Person.

6^{thly} That besides what the Nature of the thing in respect of our own Preservation does require. The french have given Verry Notable & recent examples of the method for Detaining such Prisoners of Warr who shall have the Misfortune to fall under their Suspicions and jealousies and by only Changing this Stile or name, of a Prisoner of Warr, into that of a Prisoner of State, and then without rend'ring or assigning any other reason, keep them During their Pleasure which seldom Terminates untill the end of the Warr as was lately acted with M^r Nelson.†

7^{ly} The foregoing Circumstances being Duely Considered Wee humbly Conceive, That itt is Inconsistent with the honour of her Maj^{ties} and of this Government, as well as the safety thereof to give up into the Enemies hands a P'son so Circumstanced, especially Since with his own Consent. Wee might Improve him in our Service and happily if Prudent Measures were taken he himself would Chuse to remaine, Which Wee presume Cannott be Deny'd him.

8^{ly} Were there nothing else, but the manner and the urgency of the French Demanding off him is a verry Sufficient reason why wee shou'd p'serve him to our selves

9^{ly} All the objections that Wee can Conceive reasonably to be made, are either the release of or Prisoners with them or the Charge of theirs with us, To which wee humbly answer To the first: That y^e Same Instant demand was prest upon us the Last year, by Monsieur d'e Brouillart Governr of Port Royall, but when he saw that his Arguments could work no Effect he then desisted and So Submitted to a totall exchange without any further mentation off him, And if our Impatience do not prevent the same with better reason may be expected from Canada, For that wee have in our Possession more men; and those of Better Consideration then they have of ours, (Except m^r Williams) for whom may be some especial provision made towards his Subsistence. And as to the Charge of maintaining the French p'soners here Doubtless Methods might be found out by Immploying & Setting of them To work, as they do to ours, So that the most of this Charge will thereby be taken off.

* These prisoners were released December 10, 1697. See note to private act, number nineteen, and Sewall's Diary, vol. I, p. 465. Baptiste was recaptured by Captain John Harraden. See note to resolves, 1703-4, chapter 27.

† See notes to resolves, 1698, chapters 33 and 50.

The mature and Serious Consideration of the Premises is humbly recommended To Your honours By Your very humble Petitioners and Servants—

TIM ^O CLARKE	WM ^T HARRIS./—	SAMUEL LYNDE
ELIAS HEATH	J ^O NELSON	ROBERT HOWARD—
DAN ^L L POWNING	CHARLES CHAUNCY	WM ^T KEEN
THO ^S CUSHING	DAVID JEFFRIES	JOHN SMITH
DANIEL OLIVER	JOSEPH PARSON	B WALKER—
SAMUEL LILLIE	ANTH ^O STODDARD.	JOHN MICO—
JOHN BORLAND	J ^N MARION J ^N R:	FRAN: CLARKE
JOHN PITTS	JOHN FFRIZELL	CHR: TAYLOR
THO ^S HUTCHINSON	NATH ^L L HOLMES	THOM GWINN
EDW: HUTCHINSON	JAMES BARNES	JOHN RAYNSFORD
JOSEPH FLINT	E LYDE	N ROBERTS
SAMUELL KEELING	J ^N OULTON	J ^N BALLANTINE J ^N R
BENJ ^A ALFORD	BENJ ^A PEMBERTON	JAMES MONTIER
ELIAH ADAMS	JAMES GRANT	JOHN GEORGE
WM ^T EVERTUN	WALTER NEWBERRY	JOHN VRYLING
EAST APTHORP	JOSEPH PROUT	AND ^R FANEUIL."— <i>Mass.</i>

Archives, vol. 71, p. 152.

Notwithstanding this implied protest, which was read, first, in the House and then in the Council on the twenty-ninth of June, both branches, by concurring in the passage of the present chapter, declined to recede from their former votes of advice.

Preparations for the voyage * to Quebec which, as shown in the note to private act, number nineteen, was to be in a brigantine owned by John Borland, and under the direction and at the expense of Samnel Vetch, had already begun, as appears by the following order in Council:—

"June 27, 1705. Ordered. That Mr Commissary General do furnish Twenty day's provision of Bread, Beer, Flesh and pease for the number of men borne upon the Vessel in which Mr Courtemanche the French Commissioner is returning to Quebec. And a Hogshead of good wine as a present to the Governor there.

J: DUDLEY."—*Executive*

Records of the Council, vol. 4, p. 187.

On the sixth of July † the brigantine cleared for Quebec with the envoys and Courtemanche as passengers ‡—the latter being now fully informed of Dudley's intention to liberate Baptiste with the other prisoners.

Besides the draught of the tentative treaty signed by him and Courtemanche Dndley forwarded to Vaudreuil, by the latter, a copy of the treaty (upon which his articles were based) between the governors at Martinique and the Leeward Islands, together with the following letter, in which he signified his purpose to return Baptiste:—

Sir:—

"Boston, July 4, 1705.

Two months ago I received your letter from the hands of Mr. Hill and the Frenchmen who accompanied him, whom I placed at the disposal of the Sieur de Courtemanche, your envoy. As for Mr. Hill, he returns, according to my order, by sea with him, and the two Frenchmen by land. It was about a month ago that some other letters were delivered to me in your name by the Sieur Courtemanche, with whom Mr. Livingston and Sheldon have returned. They have taken care to pay their debts to the Sieur de Courtemanche's satisfaction.

With regard to the Sieur de Courtemanche, it gives me pleasure to assure you that you could not in any way have done me a greater service than by sending such a worthy gentleman to negotiate the exchange. He is indeed a man of honor, who is in every way

* The ostensible reason for proceeding by sea was the illness of Courtemanche, which Pontchartrain seems to have suspected was feigned in order to afford a plausible pretext for private negotiations contrary to the laws of both nations. He wrote to Vaudreuil June 9, 1706,—

"The illness which obliged Sieur de Courtemanche your envoy to Boston, to return in an English brigantine, has much the appearance of having been assumed as a cover for trade. This obliges me again to recommend you to use all possible precautions in the Treaty you will conclude, against a reciprocity of trade between the people of the two Nations."—*Documents relating to the Colonial History of the State of New York, vol. IX., p. 779.* This letter was a full and formal communication to Vaudreuil of the comments made by the minister upon a summary of Vaudreuil's letter to him October 19, 1705. The following are summaries of, and comments upon, the proposal to exchange prisoners, and the account of Courtemanche's illness:—

"M. de Beauharnois and he sent an account this spring, by way of Placentia, of the arrival of Captain Livingston, sent by Mr. Dudley, to propose an exchange of prisoners. He sent back with him the Sieur de Courtemanche (who has already been in that country), in order that he might facilitate the exchange and learn the state of their affairs.

He aims to treat with them in such a way that the glory of the King and the honor of the nation shall not be affected."

"I hope that the exchange and neutrality may be advantageous to both colonies; but some particulars indicate that the two governors make use of pretexts of this sort to have occasion to send persons back and forth for purposes of trade." [By Pontchartrain.]

"The Sieur de Courtemanche falls ill at Boston, and Mr. Dudley uses that as a pretext to persuade him to return by sea and proposes in the letter that he writes to M. de Vaudreuil a kind of truce between the two governments."

"The pretended illness of the Sieur de Courtemanche seems to authorize the suspicion above." [By Pontchartrain.]—"Collection de Manuscrits," etc., vol. II., p. 449.

† "On Friday the 6th. Sailed Capt. Courtemanche, who came hither [Boston] to His Excellency from the Governor of Canada, in order to Concert Measures for the Exchange of Prisoners, between whom there is a good understanding."—*Boston News-Letter, No. 64.*

‡ Samuel Hill, the messenger sent "through the woods" by Vaudreuil, returned to Quebec in the same vessel. His companions, the two Dubois, were sent back overland by order of Courtemanche,—Dudley having given him permission to direct the manner and time of their return.

agreeable to me. I hope that the reception and treatment accorded him here were as courteous and considerate as the occasion demanded.

I have had him look over the list of all the Frenchmen who are prisoners here. He saw them all and acknowledged that they are very well treated. He will give you a copy of this list and can assure you that there are no French prisoners who have gone to Europe or to the West Indies except at their own request. In the proposed articles you will see that I am obliged to send them to Port Royal immediately on their arrival in parts subject to this government.

In order to save time I have signed the articles that the *Sieur de Courtemanche* is to hand you; and I beg that you will return me a copy signed by you. I will keep them religiously in future. Considering that winter is approaching, I have used all possible means to effect the exchange before then; and I assure you that on the first tidings I have of your acquiescence touching the articles and the return of the prisoners, I will send home all your people.

I desire that the commissioners may meet yours at Mount Desert about twenty-five leagues west from Port Royal where we have formerly made exchanges. Mount Desert is an island in the Bay of Thienday* where all of your vessels as well as ours put in for safety.

If you please to let me know the day that you will set for their leaving Quebec I will take care to calculate so well on the time that it will take for the voyage as that they may meet about the same day.

As for Baptiste, I believe that the *Sieur de Courtemanche* has heard so many things about him and his baseness, that upon all accounts you will allow that he is a knave who does not deserve that you should ask for him again and perhaps you will judge that it is not worth while for me to keep him. That is why I determined to send him back with the other prisoners to the place of rendezvous, that if the articles are accepted and the exchange made, I will have him sent with the others to be returned and this business will be ended.

I notice in your instructions concerning the prisoners who are held by the Indians, that you would not buy them back hereafter; and I assure you frankly that I will not give a penny for any prisoner under pretext of money paid by you to the Indians for his ransom, because I cannot tolerate the idea that Christians may be slaves of these wretches. And if you do not wish to redeem these English prisoners from the Indians, I shall be obliged to allow my Indians, who are fully as numerous and better people, to keep the prisoners they shall take from your nation; then the thing will be equal on both sides and your people will be forced to conform to a savage life as well as mine.

You go too far in your letters when you speak of the command that I have here as if it were not equal to your own. I have in this place all the just and reasonable power that an English governor could wish, and find a correspondingly just and reasonable obedience; although by the grace of God the number of my people exceeds that of yours tenfold. — the thing which ordinarily constitutes the difficulty of government.

In your letters you mention the *Sieur Allain*, who has been unfortunate. He pretends that he was sent to me from Port Royal with a flag of truce, but that he fell into the hands of a young navy officer who belonged to another government and who carried him thither.

He was not able to show his passport nor his credentials; but I have had faith in his word and have treated him like a gentleman. I did all that I could to facilitate his return, and he is now on a little vessel which is to carry him from the eastern coast to a place where I have given orders that he shall find a fishing-vessel.

I generously gave him two very hardy men from Port Royal, who were prisoners here, to serve him in returning to his home, and that in exchange for two maidens whom Mr. Livingstone brought. The *Sieur de Courtemanche* goes back by sea in a stanch vessel which he took here. He promises that she shall not be detained more than ten days, but as she has my permit for Quebec, she ought also to have yours in order to return here with all the English who are there.

I have only one thing to add, which is to tell you that the *Sieur de Courtemanche* has induced me to consent to give him Mr. William Dudley,† the youngest of my sons, to keep him company as far as Quebec and to return with Captain Vetch on the same vessel.

He is a young man who has had no experience, but I wish that he should travel before I make something of him. It is the first time that he goes away from home.

I ask your pardon for the liberty I take. I will gladly render a like service to any of your kindred if ever you command me. I send you a gift by Captain Courtemanche of a cask of sweet wine, which I hope will be good.

I have given the *Sieur de Courtemanche* a copy of the treaty made between Martinique and the English governors of the Leeward Islands, to let you see how it conforms to that which I have projected for our governments, which will be equally useful to you and to me; and we shall remain thus at peace if we wish, notwithstanding the war.

With all possible respect, I am, sir,

Your most humble and obedient servant,

DUDLEY.

P.S. Have the goodness to despatch as soon as possible a courier by land, so that I may know what you do with regard to the exchange." — "*Collection de Manuscrits*," etc., vol. II., p. 435.

* Now Frenchman's Bay.

† Pontchartrain, in the abridgment of, and comments upon, Vaudreuil's letter above referred to, summarizes and remarks as follows upon this action of Dudley: —

"Mr. Dudley improved the same occasion to send him one of his sons, eighteen years of age, who has merit."

"It is to be feared that he may have become acquainted with the country, in order to make use of it some day against us." — "*Collection de Manuscrits*," etc., vol. II., p. 450.

He also sent by his son William a letter of introduction, as follows:—

Sir:—

"Boston, July 5-16, 1705.

I cannot allow my son to present himself to your excellency without a letter bespeaking for him the favor of your courtesy. He is young and inexperienced but I hope that some time he will prove worthy of his name and fulfil my expectations. M. de Courtemanche himself persuaded him to accompany him to Quebec. I shall return the courtesy that you show him to any person whom you shall please to recommend to me.

I have no doubt that what I have written to you will procure an exchange of prisoners, and I should be very glad if my son could see them and procure assistance for their prompt return, for fear the winter might surprise them; and unless the manner of sending back the prisoners does not suit Mr. Williams because of the large number, if you will allow them to come with my son, I will give to your gentlemen in this town a special passage for their return.

Captain Veach (*sic*) is my particular friend and I shall ever be grateful for any consideration you may please to show him.

I desire that he, my son and the vessel may be despatched in ten days conformably to the agreement made with M. de Courtemanche.

I am, sir, Your very humble and very obedient servant,

BUDLEY."—*Ibid.*,

p. 439.

Chap. 52. This chapter is from archives, vol. 20, p. 103. It is recorded in council records, vol. VIII., p. 153.

The first motive for addressing the queen at this time was to thank her for the supply of warlike stores, the promise of which had been communicated by the queen's ministers through Captain Nathaniel Cary. His personal ill-fortune on his voyage out has been described in the note to chapter 42 of the resolves of the year 1704-5, and is more particularly related in the note to chapter 93, *post*. It will be remembered that the address, the vote approving the draught of which constitutes chapter 120 of the resolves of 1704-5, was intended to replace or reinforce the address and memorial which Cary had been charged to lay before the queen, but which it was then feared had failed of resulting in benefit to the province. This fear, however, proved not well grounded, and long before the convoy of the mast ships to England bearing that address reached its destination the Governor received a letter from Cary which he reported to the Council on the fifteenth of May, as shown in the note to chapter 42, above mentioned.

In his speech at the beginning of the first session of the Assembly this year (May 31, 1705), the Governor thus refers to this letter and to the duty the queen's bounty had made imperative of expressing the thanks of the Assembly therefor:—

"... The Letters from Captain Cary your Messenger to Whitehall last year will acquaint you with Her Majesty's most Gracious reception of your addresses and orders thereupon; which will oblige your most humble addresses of Thanks to Her Majesty for Her Royal Bounty towards this Province. . . ."—*Mass. Archives*, vol. 108, p. 28.

No action having been taken upon this letter, probably on account of the uncertainty of the realization of the queen's promises, the Governor renewed his recommendation in his opening speech at the next session, on the fifth of September, as follows:—

"... And this assembly will . . . I hope remember to address Her Majesty with their Humble thanks for ye great encouragement given to the Importation of navall stores by ye Act* of Parliament & her Majestys Royall bounty in ye Cannon bestowed upon us—In all which I shall be glad to assist as is my Duty yt this Province may always deserve & never want ye Protection & favour of Her most Sacred Majesty & ye Govern^t of England upon which we have our Just dependance. . . ."—*Ibid.*, p. 35.

In the mean time other matters of importance, which the Legislature could not be excused for failing to notice in such an address, had been commended to the Governor's attention by the Lords of Trade so earnestly and pointedly that he felt compelled to take the first opportunity to urge the Legislature to prompt and favorable action upon them. These were the royal commands, conveyed in letters dated as far back as the twenty-fifth of the previous January, to comply with the requirements heretofore repeatedly made to rebuild the fort at Pemaquid and to provide a permanent, stated salary for the governor. There was also a further requirement that they contribute towards the cost of the fort at Piscataqua.

Apparently these letters came to the Governor's hands after the prorogation of the first session, since he submitted them to the Council on the nineteenth of July for their advice as to whether he should call an extra session in order to avoid delay in bringing them to the notice of the General Court or should wait for the Assembly to convene at the time to which it stood prorogued. To this appeal the Council replied as follows:—

"July 19, 1705. . . . Upon consideration of the little difference there will be in time betwixt the one and the other, and that there is no Ship bound to England. It was advised to stay to the Prorogation."—*Executive Records of the Council*, vol. 4, p. 200.

The state, at this time, of the controversy respecting a fixed salary for the Governor may be gathered from the notes to resolves, 1703-4, chapters 46 and 114, 1704-5, chapters 15 and 125, and chapter 45, *ante*.

The controversy concerning building a fort at Pemaquid has not been so fully and distinctly described, on account of its being intimately involved with other questions of more immediate importance; still a general view of the relations of the agents of the crown and the provincial Legislature upon that subject may be gathered from the previous chapters and notes hereafter referred to. However, these are not so regularly connected that a brief review of the subject would be wholly superfluous to elucidate the points at issue at the

date of the passage of this chapter. It may, therefore, be helpful to be reminded that the rebuilding the fort at Pemaquid first became a matter of urgent requirement on the part of the crown under Governor Dudley's administration. Although the letter* from the Privy Council of the nineteenth of January, 1700-1, conveyed a command that the work should be done, it was not earnestly insisted upon until Dudley, in accordance with his instructions "To press the Assembly vigorously to exert themselves to fortify the Province, especially Pemaquid 'which they too easily suffered to be taken and demolished by the French during the late War,'"† began a series of commands, entreaties, and threats to urge the accomplishment of the work. His first recommendation to the Legislature to undertake the rebuilding of the fort is given, together with his instructions upon the subject, in the note to resolves, 1702, chapter 24, and in this he indulgently suggested the alternative of another fortification near Pemaquid if the rebuilding of the old fort "he thought improper."‡ At the beginning of the second session that year (October 15, 1702), he renewed the recommendation in his speech to the representatives, but without the alternative suggestion, as follows:—

"Gentlemen

Since I Saw You last I have in Obedience to Her Majesty's Commands visited all the frontiers to the Eastward as far as Pemaquid and had then the Opportunity of Conference, with the Sachems of those Parts, which has Occasioned the Quiet that we have hitherto had on that side, and saved you the Trouble of an earlier Meeting than at this time, which truly I was very apprehensive would not have been Prevented, and how long it Shall last I have no Assurance, and therefore we ought to be in all Points ready.

The last Session I Communicated to You Her Majesty's Instructions referring to the Rebuilding of Pemaquid, which I must Still with all Earnestnesse offer to you, and when it is Considered that all the Stones necessary are in place, the foundation yet good, and Lime to be had very near and easy, the Rebuilding cannot be thought to be halfe the original Charge, Added to this I must Acquaint you, that the Indians in their Treaty, and Since, Urge the Necessity of another Trading House beyond that at Casco Bay, and I Judge it as necessary as They, if we Intend to hold them Depending, and that may as well be at Pemaquid, as any where else and better, because the Harbour is good, and our Honour Depend's upon our Asserting our own which we so unluckily lost, These Things Added to Her Majesty's Directions in the matter I hope Will have their due Weight with every body, I hope the Gentlemen of the Councill & Assembly that there is with me there, will when the Affair is before You Represent that Matter as it is. . . ."—*Mass. Archives*, vol. 108, p. 4.

The subsequent altercations between the Governor and Council and the representatives concerning the rebuilding the fort at Pemaquid, and the objections of the latter to undertaking that great work at the expense of the province, have been traced to the legislative session of 1702-3, in the note to resolve, 1702, chapter 67. Dudley's failure to induce the representatives to concur with the Council in accepting the favorable report of a joint committee, who accompanied the Governor to Pemaquid to inspect the ruins of the old fort in order to report upon the feasibility of rebuilding it, has also been shown. This want of agreement between the two branches led to the adoption of an address and memorial to the queen by the House alone.§

The first allusion by the Governor, in speech or message, to the rebuilding of the fort at Pemaquid, after the deadlock of 1702, was the following, in a paragraph in his speech of October 27, 1703, at the beginning of the third session:—

"as Likewise that you do again consider and do your duty in Restoring the fortification at Pemaquid, I shall offer you no arguments on these heads, but that herein we shall shew our selves obedient and good subjects as all her Majestyes Kingdoms and plantations do at this time to the Most Just and Gracious Prince that Ever sat upon the throne of England, and I am Comanded to assure you that this is the Method to obtayn her Majestyes favour and that it is her Royall Grace thus to Move you to do your duty rather then to have it in any other way."—*Ibid.*, p. 12.

The Secretary was then directed to read the queen's two letters, and, with some additions, proceedings thereupon ensued as shown in the note to resolve, 1703-4, chapter 114. Besides the request which the Council made for the return of the queen's two letters the Secretary was requested "to inquire after a Return to a Message sent from the Board the last Night;"|| and the oral message which the House sent back, and which the Governor declined to receive, contained the declaration "That the Journal of the House is open, And his Excy & Council may appoint a Committee to inspect the same, to see what has been done in that Matter."¶ After the first paragraph the written message sent up by the House continued as follows:—

"2 For the Building a Fort at Pemaquid.

We humbly Conceive Her Majesty hath Received Misrepresentations, concerning that Affair, at least our Apprehensions of it do not Concurr, with what hath been Represented to Her Majesty, wherefore this House sent home their humble Adresse & Memoriall Dated March 27th 1703, to Lay before Her Majesty our reasons, why we did not Comply, with Her Majesty's Directions in that matter, viz^t

1.) The little Advantage it was formerly to us altho^t not lesse than Twenty Thousand Pounds expended.

2.) The Scitnation being out of the ordinary Way of the Indians, and more than One Hundred Miles distance from any English Plantation.

* See note to resolves, 1701-2, chapter 24, vol. VII., p. 679.

† *Ibid.*, 1702, chapter 24, vol. VII., p. 715.

‡ *Sic*: were.

§ This address of the House was "twice repeated." See p. 518, *post*.

|| Council Records, vol. VIII., p. 9.

¶ *Ibid.*, p. 10.

3) For the now * Building, and Maintaining sd Fort, the great charge will be such that this Country cannot possibly Substnd under in Regard of the Severall large Summs of money Laid out in the Raising new Fortifications on Castle-Island with diverse others in this Province of great Importance which are set forth in sd Memoriall, and we hope may be sufficient to render us excusable; But the fresh unaccountable Charge Created by the present War, with the Indians, we humbly Conceive is Argument enough; were there no other for our not Building the same." — *Ibid.*, p. 13.

Beginning with the next day the following proceedings took place:—

"Nov. 17, 1703. A Message was sent by John Phillips & Isaac Winslow Esqrs to the Represent^{es} to enforce the message sent two days since for a Copy of their Address to her Majesty referring to the Affair of Pemnaquid.

His Excy afterwards directed the Secry & John Foster Esq to carry the same Message & withal to intimate to the House the Usage of the two Houses of Parliam^t viz^t That when the House of Lords desire to inspect the Commons Journal, the Clerk of that House attends their Lordships with the Books, but when the Commons desire to inspect the Lords Journal, they do it by a Comm^{tee} & that he only expects either a Copy or their Clerk to attend, & read the same out of their Books.

An Order of the House of Represent^{es} was sent up & read, being in the Words following viz. Ordered that a Message be sent up to the Board in Answer to their Message of the 15th Instant for a Copy of the Address of this House to be forthwith laid before the Board, That the Journal of this House is open to the Veiw of such as the hon^{ble} Board Shall send to inspect the same, which We apprehend is as much as is customary to be demanded of one House of Parliament by another." — *Council Records*, vol. VIII., p. 11.

"Nov. 17, 1703. His Excy desired Eliak^m Hutchinson Esq to acquaint the Represent^{es} That he is in Council & directs y^t Mr Speaker & the House do forthwith attend him with the Journal of their House:—Some of the Represent^{es} attended his Excy to acquaint him that it being full Noon, & many of their Members out upon Comm^{tees} M^r Speaker & the House prayed their Attendance might be excused till after Dinner, which his Excy granted.—Post Meridie, M^r Speaker & the House attended his Excy in Council, & his Excy intimated the Occasion of sending for them, viz^t the Message sent them in the Forenoon, referring to their Address to her Majesty.

M^r Speaker answered, That himself & the House attended in Obedience to his Excy's Commands, but said their Journal lay upon the Table in their own House open to the View of any Comm^{tee} to be appointed by the Board; But the House did not understand it to be the Practice in Parliam^t nor had it been the Usage in this Country to bring up their Journal, & declaring he had no further to say to what was offered by his Excy, they were dismiss'd." — *Ibid.*, p. 12.

"Nov. 17, 1703. Jonathan Corwin & John Higginson Esqrs were sent with a Message to the Represent^{es} to inquire, whether the House had had any further Consideration of that Matter since their Attendance, who return'd Answer from the House that they were upon Consideration thereof." — *Ibid.*

"Nov. 17, 1703. A Message was brought up from the Represent^{es} by Cap^t Otis, M^r Blagrove &c. That if his Excy & Council please to appoint a Comm^{tee}, The Clerk of the House should attend them to draw a Copy from their Journal of their Address to her Majesty." — *Ibid.*

"Nov. 18, 1703. The Secry, Jonathan Corwin & Penn Townsend Esqrs were named a Comm^{tee} of the Comm^{tee} of the Board to inspect the Journal of the Represent^{es} being attended by the Clerk of the House to receive a Copy of their Address to her Majesty, pursuant to the Message they sent up the last Night—And accordingly the said Comm^{tee} received a Copy of said Address attested by the Clerk of the Represent^{es} & examined in their Presence." — *Ibid.*

"Nov. 18, 1703. Upon reading the said Address, It being observed it had relation to a Memorial accompanying of it, A Message was sent to the House by Samuel Patridge & Samuel Hayman Esqrs to desire a Copy of the said Memorial, who returned Answer from the House that they would prepare a Copy of the same." — *Ibid.*, p. 13.

"Nov. 19, 1703. A Message was sent to the House for a Copy of their Memorial accompanying their Address, which the Messengers brought up with them." — *Ibid.*

On the twenty-third the Governor made a speech to the Assembly in which occurs the passage which, under that date, appears in the note to chapter 114 above referred to, and which preceded the following reference by him to the queen's commands respecting the proposed work at Pemnaquid:—

"... but that if they would make one Step towards complying with her Majesty's Commands in the Matter referring to Pemnaquid by granting any Sum of Money towards that Work, they sh^d see what Representation he would make thereof. & her Majesty's Answer thereto, which might be expected by May following, before one Shovel of Mortar were laid." — *Ibid.*, p. 15.

Constantine Phipps had been acting agent of the province, and, in that capacity, April 8, 1703, had written to the General Court, "intimating his presenting the Address sent the last Year to her Majesty, & the Application he had made for a Supply of warlike Stores."†

This letter had been read October 27, 1703, and the resolve thereon prepared for rewarding the writer for his services, which was afterwards passed as chapter 79 of the resolves of 1703-4. The representatives had passed the resolve November 12, 1703, and it was pending at the time the above speech was delivered by the Governor. At the beginning of this speech, as if to resent the agent's interference with affairs that properly belonged to the

* *Sic*: "new" in the copy of the Council Records in the State Library.

† Council Records, vol. XIII., p. 2.

Governor as the regularly appointed intermediary between the Privy Council and the Assembly, Dudley made the observation upon the subject of Phipps's relations to the General Court, and his recompense, which appears in the note to that resolve.

More than a year passed before the Governor again reminded the Assembly of the queen's commands relative to the rebuilding of the fort at Pemaquid. In his speech at the beginning of the fourth session (December 27, 1704), he, by command of the Lords of Trade, communicated, as follows, the expression of their regret at the obstinacy of the Assembly in this matter, and of their resentment of the indecorum of the House in sending to the queen an address * without the Governor's knowledge and consent:—

" . . . I am also Comanded by the Right Honorable The Lords Comissioners of trade & plantations to acquaint you that they are sorry for the refractory temper of the assembly referring to her Majestyes Comands for the rebuilding of pemaquid, & that your address in Excuse: thereof did not reach so farr as that board & so came not to her Majesty & that it is very vnfit that assemblies should make representations to her Majesty without the Consent & Knowledge of her Majestyes Governour. . . ." — *Mass. Archives*, vol. 108, p. 24.

Nothing appears to have been done by the Legislature of 1704-5, after this date, nor in the first session of the next year, either in regard to salaries or fortifications.

The contribution required of Massachusetts towards defraying the cost of the fort at Piscataqua was not one of the matters upon which Dudley received instruction upon his appointment as governor. The exactions of the government of New Hampshire in the form of tolls as an equivalent for the protection which this fort afforded to commerce on the Piscataqua River had been a subject of complaint † by citizens of Maine inhabiting the eastern shore of that river, and might well be considered as more than offsetting any benefit derived by Massachusetts from it as a barrier to foreign invasion. Besides, the council of New Hampshire were preparing a memorial ‡ to the Lords of Trade, to be sent at the same time with the address of Massachusetts, asking for a supply of ammunition and for a detail of soldiers to garrison that fort.

Such was the condition of the several subjects which were to be considered by the Legislature in preparing at the approaching session a formal address to be tendered to the queen.

The Assembly convened on the fifth of September, and the Governor, according to custom, delivered the opening speech, in which he fulfilled his purpose to lay before the whole Assembly the letters and commands that he had already submitted to the Council, as follows:—

" Gentlemen

When I parted from you last I had no Intention to have seen you upon this Prorogation, but to have left the ordinary affairs of the Government to ye usual time of your sitting nearer ye Winter, but upon ye Receipt of Her Majesties gracious Letters which I have now to lay before you I Judge ye present Session absolutely necessary, That you may not want an opportunity early to shew ye Obedience, & I may have ye Satisfaction to represent It, Her Majestys Comands contained In these Letters are not new, but such as I brought with me at my arrivall & have since been renewed by Her Majties most gracious Letters at all times, ye Articles are ye rebuilding Pemaquid, The Assistance of ye Fortifications at Piscataqua River, and ye Settling of Salarys for ye Support of Her Majties Governour & Lientant Governour —

Gentlemen of ye Representatives

Your Journell will acquaint you of ye proceedings of your hous as well, as of ye Council In ye Affair of Pemaquid —

That ye Comitte of ye Assembly of both houses upon view of ye Ruines when they attended me thither Three years since, represented ye benefit of restoring That important place & ye Council from time to time accepted That return, so yt our neglect of her Majties Comands In yt Article rested at yr Door —

In ye other Article of ye Establishment of Salarys for ye Governour & Lientenant Governour It has been frequently lay'd before you, & messages & votes of ye Council sent you, to make better provision for ye Government than has been done, but yt which Her Majesty insists upon in this matter is an Establishment of A Salary upon Those Offices yt Her Servants may know what to depend upon for their Just Support & Encouragement In Her Service.

Her Majty has graciously Comanded mee to Represent to the Assembly their great neglect of their Duty to Her Majty & their own security. In this ocasion & yt you do forthwith apply yourselves to ye rebuilding ye fort at Pemaquid, & to contribute towards ye charge of ye fort at Piscataqua & to the settling of Salarys upon her Majties Governr & Lieut Governr —

And yt ye neglect of these Comands will shew this Assembly undeserving of Her Majties royall favour & bounty towards them.

Gentlemen

You will allow me to tell you that after all the Royall favours & Protections we have had from Her Majty during Her prosperous Reiga These are ye only Comands That have been given us & our neglect & Disobedience will be very much aggravated & attended with very evill Consequences

I very well know yt It will be easily objected that this Province is at great charge in ye present warr with ye French & Indians, but I must as well remember you yt these comands were given us in peace before the troubles began, when there was no such objection to be offered, & our Just obedience to Her Majty is ye nearest method yt I know of to procure ye favour of Almighty God to restore ns peace & put us Into a Capacity to obey Her Majestys Comands in greater things than These. . . ." — *Ibid.*, p. 33.

* March 27, 1703.

† Resolves, 1701-2, chapter 19.

‡ See note to resolves, 1704-5, chapter 120.

In recording this speech the Secretary added the following memorandum:—

"His Excellency having ended his Speech Ordered her Majesties gracious Letter dated from Whitehall January 25th 1704, to be read Containing her Majesties Commands referring to the Articles of his Excellencys Speech, And defuerr'd the said Letter with his Speech to the Speaker, and dismiss'd the House to their Business."—*Council Records*, vol. VIII., p. 148.

On the next day the representatives sent to the Council for concurrence a responsive message, as follows:—

"Ordered That the following Message be Sent up to the Board in answer to His Excellency's Speech at the opening of this Court. viz:

That referring to Her Majties Command for Rebuilding of Pemaquid fort, This Court at their Session in february last made their Humble Adresse to Her Majesty, which was Since the Date of Her last Letter And We hope when It Arrives to Her Majties sight, will be graciously accepted.

And as to the other Two Articles of Contributing to the charge of Piscataqua fort, and Setting of Salaries. They are matters of so great Consequence, That We Desire, They may be Debated and Answered, by a full House, which at present there is not, the members of Three Counties being absent, (It not being the usual time of meeting.)

And the Affaires of the Husbandry are yet so pressing that We cannot without great Inconvenience Continue sitting so long at this time as is necessary, to Prepare an Answer, and adresse, proper to be laid before her Majesty. Therefore Propose That the further Consideration, of the Premisses may be referred to the next session of this Court."—*Mass. Archives*, vol. 108, p. 36.

To this motion for delay the Governor sent a message urgently requesting immediate action upon the subject propounded in his opening speech. The record of this proceeding is as follows:—

"Sept. 7, 1705. Upon the Message recieved Yesterday from the Representatives, His Excellency sent a Message to the House by the Secretary for a List of their present Members, Which being brought up, It appeared their Number was Fifty six, Whereupon his Excellency sent the Secretary again with a written Message to the House in these Words; Viz,

The Governour has commanded me to acquaint you, That he cannot rest satisfied with the Vote sent up Yesterday for a further Delay of an Answer to her Majesties Commands now under Consideration, but desires that the House of Representatives will proceed to the several Articles of Her Majesties gracious Letter, And if any Members of the House be wanting, they may be sent for to give their Attendance on Tuesday at furthest, That the Resolves of the Assembly may be sent Home by Her Majesties Ship the Guernsey now in this Port."—*Council Records*, vol. VIII., p. 149.

The representatives replied in another message urging delay and giving additional reasons for it, as follows:—

"Sept. 7, 1705. Major Converse, Lt Coll. Checkley, Major Samuel Brown Mr Jewett & Cpt. Samuel Phipps of the Representatives attended his Excellency with a Message from the House to pray his Excellency, that agreeable to their Message Yesterday they may have further Time for Consideration of the Commands contained in her Majesties Letter being of great Importance, they having also address'd her Majesty with Reference to the Affair of Pemaquid before the Date of her Majesties said Letter, And had yet no Advice of the Presenting of their said Address, Which they humbly hoped would find a gracious Acceptance."—*Ibid.*, p. 150.

On the eighth, "His Excellency sent a Message by the Secretary to the Representatives, To enquire If the House had any Thing to offer to the Board this Fore-Noon, And the House returning Answer they had Nothing. Adjourned to Monday the 10th of Sept. Curr^t at two a Clock. P M."*

On the tenth, "The Council met, & having no Business before them, & his Excy. not coming to Town. Adjourned unto To Morrow at Ten in the Morning."*

On the eleventh, a committee of the House consisting of "Cpt. Savage, Major Bradford & Mr Walker of the Representatives" brought up "with a Message" the following "Answer in Writing to the Articles contained in his Excellencys Speech † at the Opening of this Session,":—

"May It Please Your Excellency

In Answer to those Articles of your Excellency's Speech at the Opening of this Session, referring to Her Majesties Directions for the Building of a ffort at Pemaquid, Contributing to the charge of the ffort at Piscataqua, & setting of salaries, We crave leave to Offer.

Imprim; As to the Building of a ffort at Pemaquid, We are humbly of Opinion, that Her Majesty, hath received misrepresentations, concerning the necessity and usefulness, of a ffort there, Wherefore this House in their humble Adresse to Her Majesty dated the 27th of March 1703. (and since twice repeated) Did amongst other things Lay before Her Majesty, our reasons, why We could not Comply with Her Expectation in that affair. as,

First, The little Benefit, the sd ffort was to us, not being (that We could discern) any Bridle to the Enemy, or Barrier to our frontiers: being out of the usual Road of the Indians; and one hundred miles distant from any English Plantation: And served only to make a safe Anchorage, for a few fishing Boats, that accidentally put in there, But the Expence thereon was very great, not lesse than Twenty Thousand Pounds.

Secondly, The charge of the said fort will be such That, We cannot see how this Province can possibly sustain it, having already Laid out, several large sums of money, in the Raising of new fortifications, on Castle-Island, with diverse others in this Province of great

* Council Records, vol. VIII., p. 150.

† *Ibid.*, p. 151.

Importance, which was set forth, in the said Adresse, and memoriall accompanying of the same, but understand, We have been so unhappy, as that the said Adresse, & memoriall did not reach Her Majesty's hand, because proceeding from this House alone, although the addressing of Her Majesty is a Priviledge, ever Allowed to the meanest of Her subjects.

We did therefore at our session in february last Joine, with the Council, in making our humble Adresse to Her Majesty, upon the affair afores^d which We hope some time since hath Arrived to Her majestys favourable acceptance.

In which latter Adresse, was further Inserted the insupportable Charge, that has been Created, by the present War, which has Cost us, not lesse than Eighty Thousand Pounds. The greatest Part whereof is still unpaid.

And We would now further suggest, That the Fortification at Casco-Bay (which in the first Intention of It, was Designed only as a Cover to a small Trading-House, Erected there, at the Request of the Eastern Indians, for a near supply, and to steady them in their Obedience to the Crown of England, and to Prevent their Going to, or Dependence on the French) is now very much Inlarged demanding a Great Expeuce, for the support thereof, and is seated near the Extent of the former settlements, & Plantations, of the English within this Province, and considerably beyond any of the present English Dwellings.

Which Reasons, We humbly Hope, will render us excusable, for not Building a ffort at Pemaquid.

2^{dly} The 2^d Article, is the Contributing to the charge of Piscataqua ffort.

The Fort in that Province has been built several years past, when It was not Desired, or thought necessary, that this Province should Assist them therein The late Reforms, & Reparations made of the same, as We have been Informed, stands that whole Province, about the sum of five Hundred Pounds which doth not amount to the Quota of severall particular Towns within this Province; towards the Charge of the War, within the Compasse of one yeare. And all the Navigation, & Trade, of this Province coming down Piscataqua River, have been charged with a considerable Duty towards the support of that fort.

And this Province, hath alwaies Afforded such Guards, as were needfull for their Haling of masts, Timber &c^s for Her Majesty's service, whilst the principall Benefit, and Advantage, of that Trade has acru'd to That Province. And They have never Contributed any thing to the Charge, of our forces, fforts, and Garrisons, or Guards by sea, that are as great a safety, and Defence to them as to ourselves. But the Publick Charge of that Government has been much lesse, proportionably, than the Charge of this.

Which being Considered We hope no Assistance will be Expected from Us, towards the charge of the s^d fort.

As to the setting of fixed salaries.

The Circumstances of this Province as to our Ability to support the Government, are at times so different, that We fear the setting of fixed salaries, will be of no service to Her Majesty's Interests, but may Prove prejudiciall, to Her Majesty's good subjects here, And as it is the native Right, and Priviledge of English subjects, by Consent of Parliament, from time, to time, to Raise, & Dispose such sums of money, as the present Exigency of Affairs calls for, (which Priviledge We Her Majesty's Loyall, and Dutifull subjects, have hitherto lived in the Enjoyment of,) so We Hope, and Pray alwaies to Enjoy the same under our most Gracious sovereign, and Her successors.

Upon the foregoing Heads We Purpose to Adresse Her Majesty: and with our humble Thanks for Her Royall Bounty, wherein We hope the Council will Joine with us, And That your Excellency's favourable Influence will not be wanting thereto.

THOMAS OAKES Speaker." — *Mass.*

Archives, vol. 108, p. 37.

This answer was immediately read in Council, and "His Excellency proposing that the Council would speak to the said Answer, Some of the Council moved that they might have Consideration of the said Paper till To Morrow, The Matter therein being of great Importance, And the Paper to ly upon the Board, Which his Excellency Ordered."* On the next day the following advice by the Council appears of record:—

"The Answer of the Representatives Read yesterday, was again Read & after some Debate thereabout, A previous Question was put, Whether the Council desired any longer Debate, which being answered, Not.

The following Questions were drawn up & severally put the Vote; Viz,
Question, whether the Council do advise the Building a Fort at Pemaquid?

Answer, In the Negative.

Quest: whether the Council do advise that this Government do contribute towards the Charge of the Fort at Piscataqua River in the Province of New Hampshire? Answer In the Negative.

Quest: whether the Council do advise to the Settling of a fix'd Salary for the Govern^r & Lieut. Govern^r for the Time being? Answer In the Negative." — *Council Records, vol. VIII., p. 153.*

The two branches being thus in entire harmony upon each of the subjects proposed by the Lords of Trade the preparation of the address became only a matter of detail, to be settled by a joint committee. Accordingly, immediately after the Council had expressed their opinion and advice, they passed the first part of the order which constitutes this chapter and sent it to the House for concurrence, whereupon the House added the final paragraph, as shown in the text.

See chapter 56, *post*.

Chap. 53. This chapter is from archives, vol. 48, p. 375. It is recorded in council records, vol. VIII., p. 149.

* Council Records, vol. VIII., p. 152.

In his opening speech to the Assembly this session, the Governor addressing the representatives thus directed the postponement of all business not responsive to the commands of the queen in the letter he had received from her and which he laid before the Assembly:—

“Gentlemen

That you may with all freedom apply yourselves to give Her Majesty Satisfaction in Her Royall comand, I do desire & direct that you proceed forthwith to ye Consideration of Her Majestys most gracious Letter now given you, & I shall meet the Assembly in another session in ye Usual Season about a month hence when ye occasion of ye Province will better allow It to which all affairs depending shall be referred. And this Assembly will give me their Answer, And I hope remember,” etc.*—*Mass. Archives, vol. 108, p. 35.*

This was on the fifth of September, and immediately thereupon the order which constitutes this chapter was passed in the Council and sent to the House for concurrence. Although it was read in the House on the same day, there was other business which the representatives evidently felt ought not to be postponed, and therefore their vote of concurrence was not passed until the fifteenth, when, that being the last day of the session, the order was consented to by the Governor.

Chap. 54. This chapter is from archives, vol. 11, p. 198. It is recorded in council records, vol. VIII., p. 154.

The proclamation in accordance with the request of the representatives as expressed in this chapter was prepared and read in Council September 20, 1705, as appears by the following entry:—

“Pursuant to a Message from the Representatives at their last sitting, and then agreed to by the Board, that Thursday the 18th of October next be celebrated as a day of publick Thanksgiving to God throughout this Province, for the great and multiplied occasions thereof to be Enumerated by the Board.

A Proclamation by His Excellency appointing the s^d day to be observed accordingly, with the occasions therein Enumerated, was read, advised to and then signed by the Governor.”—*Executive Records of the Council, vol. 4, p. 216.*

The following text of this proclamation is from the News-Letter, published October 1, 1705:—

“By His EXCELLENCY, JOSEPH DUDLEY Esqr. Captain General and GOVERNOUR in Chief, in & over Her Majesties Province of the *Massachusetts-Bay in New England in America.* A PROCLAMATION for a Publick THANKSGIVING.

WHEREAS it has pleased Almighty God in his Great Goodness to preserve Her Majesties Sacred Person, and to prosper Her Arms in the Just War, wherein Her Majesty and Her Allies are Engaged for the preservation of the Liberties of Europe, Having also been Graciously pleased, in the Summer past, to restrain the Insults and Outrage of our barbarous Enemies, & to grant us great Quiet and Tranquillity; To bless the Fruits of the Earth, and to give us the hopeful prospect of a plentiful Harvest; To grant us general Health, and to Smile upon us in other our Publick Interests and Enjoyments.

Wherefore humbly Adoring the Divine Goodness, and duly that such great and publick Blessings do call for Publick and Solemn Acknowledgements.

I Have thought fit, by the Advice of Her Majesties Council, & at the Desire of the Representatives in their late Session, hereby to Order and Appoint, That a General THANKSGIVING to Almighty God, for these His Mercies be Observed throughout this Province, within the several Towns and Districts thereof, on Thursday the Eighteenth Day of October next: And do strictly forbid all Servile Labour thereupon; Exhorting both Ministers and People to Solemnize the said Day after a Religious manner, and to offer up sincere and hearty Praises to GOD.

Given at the Council-Chamber in Boston the 20th Day of September, 1705. In the Fourth Year of the Reign of our Sovereign Lady ANNE, by the Grace of GOD of England, Scotland, France and Ireland, QUEEN, Defender of the Faith, &c.

By Order of the Governour and Council,
Isaac Addington, Secr.

J. DUDLEY.

GOD Save the QUEEN.”—No. 76.

Chap. 55. This chapter is from council records, vol. VIII., p. 154, and archives, vol. 71, p. 127.

The following is the petition mentioned in the preamble to this chapter:—

“To his Excellency Joseph Dudley Esqr. Cap^t General and Governor in Chief in and over her maj^{ties} Province of the massachusetts bay &c in New England and To the Hon^{ble} the Council and House of Representatives now in General Assembly convened in and for s^d Province May 30th 1705.

The Humble Petition of William Tyng

Sheweth

That y^{or} Petitioner having this last Winter been called forth into her maj^{ties} Service Eastward to Norridgewock &c. where he had a very hard & difficult march, not only to the hazard, but to the loss of the lives of several of his men one of whom viz^t Eleazar Parker left a Widow & fatherless children behind him, the rest other Relations in a very poor & distressed Condition, & by no means able to bear the charges and Expences of the sickness & funerals, and one other person namely Joseph Kidder receed a cutt in his ankle in the Countrys service which disabled him for a considerable time to do any work as by the annexed acco^{ts} may appear Now (may it please this great & General Assembly) forasmuch as that Expedition was of good service to her maj^{ty} and this province

* Continued in note to chapter 52, ante.

Yor Petitioner therefore in the behalf of the sd Deceased (and wounded) their friends and Relations, humbly prays yo^r Excellency and Honor^s: would please to take the premises into yo^r pious and charitable Considerations, & to grant them such allowance in Consideration of their good services as to yo^r Excellency & Honor^s in yo^r wisdom & good * shall seem meet.

And yo^r Petitioner (as in duty bound) shall ever pray &c^s.

WM TYNO."—*Mass.*

Archives, vol. 71, p. 126.

This petition was read in the House on the twenty-sixth of June but no further proceeding upon it in this session has been discovered.

In the second session the resolve which constitutes this chapter was passed on the seventh of September and sent to the Council for concurrence. On the fifteenth it was read and concurred in, and consented to by the Governor.

With the petition were filed the following accounts, and the letter accompanying a statement which appears to have been sent by Captain Thomas Harvey of Amesbury to Tyng at Chelmsford:—

"An a compt of funeral Charges: &c: of John Carter a souldier under y^e Command of Cap^t Willi^m Tyng who deceased March y^e 26th 1704/5:

<i>Imp^{ts}</i>	To two Journey ^s to Concord for y ^e Doctor	0 = 7 = 0
	To: one Journey to: Boston: for things: for said Carter in his	
	sickness:	0 = 11 = 0
	To Nursing one week	0 = 10 = 0
	To: 4 Gallonds Wine at	0 = 15 = 9.
	A barrill syder	0 = 4 = 0
	To: sngger fruit & spice	0 = 5 = 6
	To 6 pair of Gloves	0 = 9 = 0
	To y ^e Coffe: and Graue	0 = 8 = 0
		3 = 10 = 3

NATHANIEL SAWYER
EPHRAIM WILDER."—*Ibid.*,

p. 129.

"An a compt of funeral Charges &c of John Brabrook a souldier Under y^e Command of Cap^t Willi^m Tyng; who Deceased march 31st 1704/5

<i>Imp^{ts}</i>	To Dressing his lame leg &c	<i>l.</i>	<i>s</i>	<i>d</i>
	To Nursing & Charges when sick	"	12	"
	To funeral Charg Viz grane Cloths & Drink	"	6	"
	To y ^e Coffin & Graue	"	10	"
		2	6	"

EPHRAIM WILDER
JOSEPH WILDER."—*Ibid.*,

p. 128.

"woborne avgvst y^e 8th 1705:

Cap^t: Tinge sir after dve Respects to y^e Colenall and yovr self: I Expected to hov had y^e money left at y^e tresursers a Cording to promes from yovr self which I desbvrst one Elezer parker sir be plesed to send it to Cap^t Stevens or leve it at y^e tresursers: and yov will ablidg yovr frind & sarvent

THO: HARVEY

Sir y^e svme is as yov have have* had ale Redey amshvrey march y^e 17th 1704/5 what was desbvrst one Elezer parker ye time of his sicknes and at his fvnl

to Cap ^t Sargnt for wine Ryve shvger	0—10—8
to thre Jvrnes to nubvrey and ferey	0—10—6
to one Jvrney to andover and ferey	0—3—6
to one barell sider	0—10—0
to makeng y ^e Cofen and digen y ^e grave	0—8—6
to winding linen	0—17—0
to attendance y ^e hole time with other desbvrments	2—6—0

5—6—0.*

[Endorsed]

To Cap^t William tinge at Chimsfarde—p^rsarg^t hvterfelde."—*Ibid.*, *p. 130.*

The order in Council † for the payment of this allowance was passed December 27, 1705, and the province treasurer's account ‡ shows that it was paid.

The expedition in which the sicknesses were contracted is described in the note to resolves, 1704-5, chapter 98; and see note to chapter 27, *ante*.

Chap. 56. This chapter is from council records, vol. VIII., p. 155, and archives, vol. 20, p. 104.

The joint committee appointed in chapter 52, *ante*, in response to a message sent to them, returned answer, September 13, 1705, that "they could not be ready so as to make their report today." On the fourteenth the following proceedings are recorded:—

* *Sic.* The footing agrees with the account given in the chapter, but is twopenco less than the figures show.

† Executive Records of the Council, vol. 4, p. 249.

‡ *Mass. Archives*, vol. 122, p. 256.

"John Hathorne Esq^r Chair Man of the Committees for an Address to her Majesty, reported the Draught offered by the Committee, Which was Read two several Times & laid upon the Board; His Excellency the Govern^r & the Lienten^t Govern^r with drawing, The Council went upon the Debate thereof, And proposed several Amendments & Alterations to be made therein and sent them down with the Draught to the Representatives." — *Council Records, vol. VIII., p. 154.*

The amendments and alterations thus proposed by the Council were discussed by the representatives with the result which appears in the following entry of the Council's acceptance of the draught as finally amended by the House; that is, as the address appears in this chapter:—

"Sept. 15, 1705. The Draught of an Address to her Majesty reported by the Committees, with the Alterations & Amendments proposed yesterday by the Council were sent up from the Representatives with the Agreement of that House to some of them & to others not, & some Alteration made by them selves; wch being Read The Council directed a Draught to be accordingly made & Returned to the House." — *Ibid., p. 155.*

On the same day it was passed to be engrossed, in the House, and the vote to engross was forthwith concurred in by the Council.

No evidence has been discovered that Dudley signified his approval of this address or of the order appointing the committee to prepare the draught thereof. On the contrary, by the following extract from a representation of the Lords Commissioners for Trade and Plantations to the Privy Council it appears that he complained of the Assembly for not implicitly obeying the queen's commands respecting those particulars in which, in their address and memorial, they asked the indulgence and assistance of the crown:—

"Col. Dudley does likewise inform us, that notwithstanding Your Majesty's repeated letters signifying your just expectations, that the Assembly there should take care to rebuild a good fort at Pemaquid, which they, by their negligence, lost during the last war, to the French and Indians; as also, that they should contribute towards the fort at Piscataqua, the same being of absolute necessity for the security of those colonies, and for protecting from the French and Indians Your Majesty's subjects, in providing masts and other naval stores for the use of Your Majesty's royal navy;— they have absolutely refused to comply with Your Majesty's directions therein; as they have also refused to settle any fixed salary pursuant to Your Majesty's commands, upon Your Majesty's Governor and Lientenant Governor of that province; but at the year's end, they give them, as also to the judges and other civil officers, such allowances as they pretend to judge they may have deserved which renders the support of the said Governors and other officers, precarious and dependent on the people." — *Records of the Colony of Rhode Island, 1707-1740, vol. IV., p. 14.*

Chap. 57. This chapter is from council records, vol. VIII., p. 155. It is preserved in archives, vol. 71, p. 168.

Chapter 75 of the resolves of the year 1704-5, entreating the Governor to demolish the fort at Saco and to erect another at or near Winter Harbor, and appropriating therefor a sum not exceeding two hundred pounds, was passed November 17, 1704. Although nothing appears to have been done under that chapter during the ensuing winter, the Governor, in the following passage in his opening speech to the new Assembly (May 31, 1705), informed them of his intention to proceed in the work as soon as his other official duties would permit:—

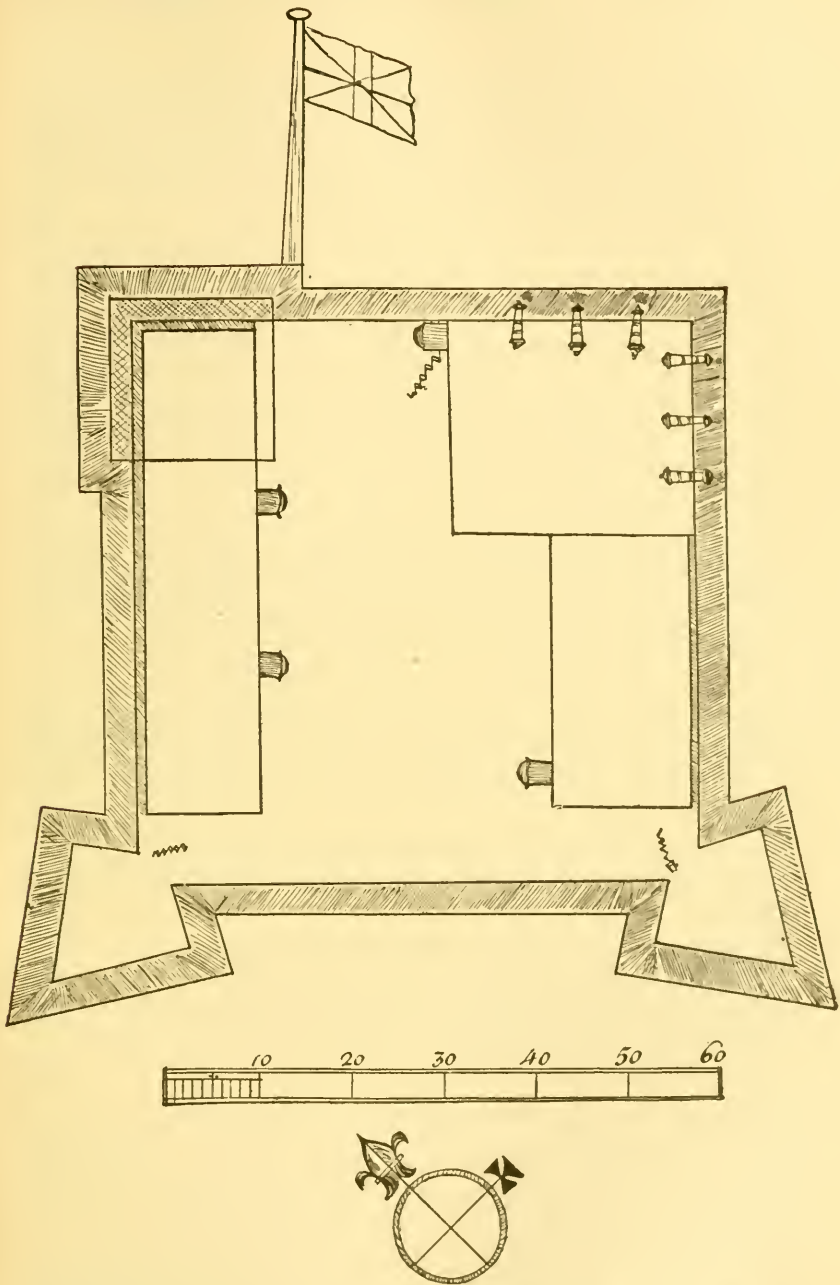
"Capt Redknapp Her Maty's Engineer has lately viewed the ground at Winter harbour for the raising the Fortification intended there, and I shall proceed in it as the pressing Affairs of the War will Allow me agreeable to the desire of the last Assembly, and shall then draw off the Garrison from Saco." — *Mass. Archives, vol. 108, p. 28.*

During the second session Captain Redknapp presented to the Legislature the following itemized estimate of the cost of the work, together with a draught of the proposed fort, as shown in the accompanying plate:—

"1705 An Account of Materials; wages vittuals for soldiers & workemen for the building a fort of 70: foot square at winter harbor

To:	6 ^m bushells of Lime at: 12 ^d P	300: .-	..
To:	1800: Loade of Stones: at: 12 ^d .	.90	..
To:	2 ^m Brick. at 30 ^h .	.3	..
To:	30: tun pine Timber at: 8 ^h P tun .	.12	..
To:	640: foot of Rafter .	.4	..
To:	350 foot Joice .	.3	.12 ..
To:	200: foot of Sleepers .	.2	.10 ..
To:	7. tun pine Timber .	.2	.16 ..
To:	300: stockadoes .	.7	.10 ..
To:	4 ^m inch boards .	.8	..
To:	3 ^m foot of Studds .	.9	..
To:	3 ^m : foot 2: inch pine planke .	.12	..
To:	1 ^m 2: inch oake planke .	.6	..
To:	3 ^m Clapboards .	.9	..
To:	Iron worke & nails .	.33	..
To:	97: soldiers officers & workmen for 4: months Service .	1044: .16	..
	for Chaplin & Doctors. wages .	.32	..
	for vittualing: 4: months .	.240	..
	To working Tooles. & other Nescarys .	.35	.5 .

sum Totall: 1854: 9 .."



The House thereupon passed the order which constitutes this chapter; and it was concurred in by the Council on the same day. This work on the fortification being wholly within the province of the Governor as commander-in-chief, he did not formally signify his consent to the order, but approved of it by conforming to the wish of the Legislature thus expressed.

See, further, resolves, 1706-7, chapter 76, and particularly 1708-9, chapter 47.

Chap. 58. This chapter is from archives, vol. 62, p. 510. It is recorded in council records, vol. VIII., p. 157.

The fact recited in the preamble to this chapter has not been found elsewhere recorded. That Coit was notified of the order of the General Court is evident by the statement in the preamble to chapter 66, *post*.

Chap. 59. This chapter is from council records, vol. VIII., p. 157, and archives, vol. 71, p. 164.

The petition mentioned in the preamble to this chapter is given below :—

"To his Excellency Joseph Dudley Esqr Gour & Comander In cheif In & ouer her Majesties province of ye Massachusetts Bay in New England, & Honrble Councill & Representatives Assembled this 5th of Sept. 1705

The Humble petition of Nathaniell Roff of Newberry is as Followeth

May it please yo^r Excellency & Hon^s yo^r petitioner voluntarily attending yo^r service of Her Majestie & this province, in the Last winters tedious March to Neridgwalk under ye Conduct of Capt Benjamin steuens: Received by the firing of a Gun a very sore wound in his Right Arme, & thereby Endured Much payne & smart: & for ye Cure of ye same; stands Indebted to Doctor Bradstreet ye sum of Eight pounds six shillings as by his Bill appears; he haueing taken out seuerall splinters of bone my arme is uery Much dissenabled for my attending my Calling

your Humble petitioner prays yo^r Excellency & Hon^s serious Consideration of my sad Condition, & Make me such Compensation as in yo^r wisdom & prudence you shall Judg Meet: for the Cost in my Cure & loss of my time & supply of my self with provisions & vntill soe far Cured as while vnder yo^r Doctor's hand from yo^r 11th of March Last to August following: & also order such yearly pension as yo^r Excellency & Hon^s shall think Conuenient according to yo^r Encouragem^t giuen (in yo^r act Made for yo^r Encouraging the prosecution of yo^r Indian Enemy & Rebels:) for such as should happen to Receiue any wound & maimen in sd service.

for yo^r Excellency & Hon^s yo^r Humble seru^t shall still pray

NATHANIEL ROLF." — *Mass.*

Archives, vol. 71, p. 164.

With this petition the following bill and certificates were filed :—

"To Nathaniell Roff visits balsams Injections Emplastors unguents and dressing his arme from yo^r 11th of March to the beginning; of August following to the perfecting of the Cure: of a large Gun shot wound: In his arme with a Laceration of Nerves and fociles 06 = 6 = 0

1st To him speciphycks and medicens proper for him In an acute and daingerous feuer which Run 14 day before a Crisis which feuer was within the time a fore s^d 02 = 0 = 0 =

HUMPHRY BRADSTREET

Andouer Sept ye 5th 1705

These may sertifie whome It may Concern that Nath^l Rolf of newberry was wnder my Comand at waridgeawok In her Majestes serceve and was wounded in his arme as witness my hand

BEJAMEN STEVENES

I The Subscriber being then present doe also attest to yo^r same with Respect to s^d Roffs Receiuing his wound in the s^d service to Neridgwork as witness my hand

Boston yo^r 5th Sept. 1705.

WM TING." — *Ibid.*,

p. 165.

The above petition was read in the House on the sixth of September when the resolve which constitutes this chapter was passed thereon and sent to the Council, for concurrence. On the twenty-sixth of October the House passed and sent to the Council the following order, which, on the same day, was read and concurred in, and consented to by the Governor :—

"Ordered That the vote, abovewritten be Revived." — *Ibid.*, p. 164.

The expedition in which Rolf received the wound mentioned above is described in the note to resolves, 1704-5, chapter 98.

The order in Council* for the payment of this allowance was passed December 5, 1705, and the province treasurer's account† shows that it was paid.

See chapters 27 and 55, *ante*, and notes.

Chap. 61. This chapter is from council records, vol. VIII., p. 158, and archives, vol. 17, p. 158.

The petition mentioned in the preamble to this chapter is as follows :—

"To his Excy Joseph Dudley Esqr Captain General and Govern^r in Chief, the hon^{ble} Council and the Representatives of Her Matys Province of the Massachusetts Bay in New England, Assembled in General Court the 24th of October 1705./—

The Petition of Theadosia Clarke Spinster one of the Daughters and Coheirs of Thomas Clark Mariner Son of Thomas Clarke late of Boston shopkeeper, both deed

Humbly sheweth,

That whereas your Petitioner and her Sister Hannah, now Wife of John Maudsly of Dorchester, stand jointly Seized to them & their heires, by descent from their s^d Father Thomas Clark deed, of a certain Messuage or Tenem^t Situate in Boston. And your petitioner designing to return to England, the place of her Nativity, in the present fleet, and being desirous to dispose of her Interest in the s^d Messuage or Tenement But forasmuch as she wants about Three months of the Age of Twenty one years./—

Yo^r Petitioner humbly pray's, That yo^r Excy and honours, would be pleased to Enable her by an Act or Order of this hon^{ble} Court to bargain for and make Sale of her right and Intrest in the s^d Messuage or Tenement and to Execute a Deed for the same, to be as Suffi-

* Executive Records of the Council, vol. 4, p. 240.

† Mass. Archives, vol. 122, p. 258.

cient and Effectnal in the Law to all Intents, as if your Petitioner were of full and lawful Age./— And as in Duty bound she shall pray &c

THEODSHA CLARKE." — *Mass.*

Archives, vol. 17, p. 158.

The above petition was read in the Council on the twenty-seventh when the order which constitutes this chapter was passed and sent to the House for concurrence. On the twenty-ninth it was read in the House and again on the thirty-first, when a vote to concur was passed, and it was consented to by the Governor.

It will be observed that no particular description of the estate to be conveyed is given either in the petition or the order. For want of such particularity, possibly, no conveyance under this order has been found of record. See, also, private act, number twenty-nine.

Chap. 62. This chapter is from council records, vol. VIII., p. 162, and archives, vol. 62, p. 502.

The petition mentioned in the preamble to this chapter is as follows:—

"To his Excy Joseph Dudley Esq^r Cap^t General & Gov^r in Chief in and over Her Maty^s province of the Massachusetts Bay in N: Engld^e the hon^{ble} the Council & Representatives in General Court Assembled

The Petition of Nicholas Paige, Benj^a. Gallop & John Colman Owners of the Brig^s Charles John Halsey Commander./—

Sheweth,
That whereas your Petitioners At their own proper Cost and charge did in the year 1704 Equip and fit out in Warlike manner the s^d Briganteen Charles, with Commission against Her Maty^s Enemies the French and Spanyards. And the s^d Cap^t Halsey and Company having taken a Spanish ship Laden with Wines and Brandy, brought her into Rhode Island where the s^d ship with her Lading were Adjudged and condemned in Her Maty^s high Court of Admiralty, as good & lawful prize. After which yor petitioners Transported & brought some of the s^d Wines & Brandy to Boston. For which the Impost Officer demands a Duty./—

Now yor Petition^{rs} humbly pray That in asmuch as they were At so great a charge in Equipping & fitting out the s^d Vessel, and run so great a risque for the publick Service to make Spoyle upon Her Maty^s Enemies, They may be Exempted from the payment of any Duty^s or Impost for the s^d Wines and Brandy brought to this Port./—

And yor Petitioners as in Duty bound, shall ever pray &c

JOHN COLMAN for selfe

& Partnors." — *Mass. Archives*, vol. 62, p. 502.

This petition was presented, first, in the second session. It was read in Council, September 15, 1705, and sent to the House, where, on the same day a resolve was passed granting the prayer that the whole impost be remitted, as prayed for. To this the Council refused to agree and the subject seems to have been resumed in the third session, by a vote of the Council on the second of November for the abatement of one-half the impost, as it appears in this chapter. It was immediately sent to the House for concurrence, and was concurred in, and consented to by the Governor.

The brigantine Charles was the same vessel which set out under command of Captain Daniel Plowman, but was seized by Quelch and his company, for which act several of those most actively engaged were executed as pirates, as narrated in the note to chapter 47 of the resolves of 1704-5.

It appears by the following copy of a deposition and commission that within a few months after the unhappy termination of Quelch's cruise the Charles was refitted as a privateer:—

"John Halsey of Boston in New England Marriner Command^r of the Brig^t Charles, Sworn Saith, That in the month of November Anno 1704. being at Road Island with his said Vessel, he had a Commission granted him by Govern^r Cranston to Equip and Command the said Briganteen as a private man of war, by virtue whereof he took a Spanish ship upon the Coast of New Spain in the West Indies. And further saith That for the manning of his said Vessel he had Twenty five New England men to serve him that came out of the Government of the Massachusetts Bay, where Colonel Dudley is Govern^r, And that his whole Complement was but Forty seven when he Sayled

Boston 3^d August 1705./.

JOHN HALSEY

Jurat. Cor. Is^t ADDINGTON J. Pac^t." — *Ibid.*,

vol. 2, p. 123.

"Samuel Cranston Esq^r Govern^r of her Majt^{ies} Colony of Rhoad Island & Provid^e Plantations in New England in America & the Propriety^s thereunto belonging Under her most Sacred Majty Anne by the Grace of God Queen of England Scotland France & Ireland &c Defender of the faith.

To Cap^t John Halsey Commander of the Briganteen Charles.—

By Vertue of our Charter or Letters Patent from King Charles the second of Blessed memory under the Broad Seal of England & since confirmed by his Majt^{ies} Successor^s Kings and Queens of England authorizing and Impowering of us to Encounter Expulse Expell & resist by force of arms as well by sea as Land, and also to kill slay and destroy by all fitting ways Enterprizes & means whatsoever all and every such Person & Persons as shall at any time attempt or enterprize the destruction Invasion detriment or annoyance of this her Majt^{ies} Plantation, and to take or surprize by all Lawfull ways & means whatsoever all & every such person & persons with their Ship or Ships, Armour Ammunition or other Goods &c. and upon Just Causes to Invade and destroy the Enemies of her Majty & this Colony.

And Whereas her Sacred Majesty upon Just Grounds Moving her thereunto hath an open & declared Warr against France & Spain their Vassals subjects as doth appear by her

Majties Declaration bearing date from St James's May the 4th 1702. her Majty also requiring of us to Use all Lawfull means & ways to annoy the subjects of france and Spain &c.

And forasmuch as the Owners of the sd Briganteen Charles as well as you have Signified to me that the sd Briganteen is furnished & Equipped in Warlike manner. also praying my Commission against her Majesties Enemies. —

I Do therefore by Vertue of the above resighted power and Command reposing special Trust and Confidence in yor Loyalty Courage, and good Conduct Impower and Commissionate You the sd John Halsey to be Cap^{tn} or Commander of the sd Briganteen Charles late of Boston and now riding at Anchor in the Harbour of Newport burthen about One hundred Tunis mounted with Eight great Guns hereby authorizing of you the sd John Halsey in & with the sd Briganteen and Company to her belonging to Warr to fight take kill suppress and destroy all Pyrates Privateers or others the Subjects and Vassals of france & Spain the open & declared Enemies Of the Crown of England in what place soever you shall happen to meet them, their Ships Vessells & Goods to take and make prize of. and yor sd Briganteen's Company or such as shall belong unto her hereafter during ye Continuance of this Commission in force are Commanded & required in her Majties name to obey you as their Cap^t & yorself in the Execucon of this Commission to observe & follow the order & Instructions herewith given you.

And I do hereby Request all Govern^{rs} & Comand^{rs}: in Chief of any of her Majties Territorys Islands or plantacons where the sd Cap^t or Comander shall arrive with the said Vessell & men, & all Comanders of her majties ships of Warr & other that may happen that may meet with him at sea Also all officers, or Subjects of the friends and allies of her sd Sacred Majty to permit him the sd Cap^t or Comander with his sd vessell, men and the prizes that he may have taken freely & quietly to pass and repass without giving or Suffering him to receive any trouble or hindrance but on the contrary, all succour, & assistance needfull.

And this Commission is to continue in force for the space of twelve months, next Ensueing, if the Warr last, or continue so long & not afterwards.

Newport on
Rhoad Island.

Given under my hand, & sealed with the seal of the Colony, at
Newport on Road Island this 7th day of novemb^r in the Third
year of her Majties Reign. *Ann^o Que Dom^o: 1704*

(S..)

SAMLL CRANSTON

1705 June the within is a true Copy of a Copy of y^e original Commission being filed in the Registers office Examd: which I attest.

NATHL CODDINGTON *Regis^r*

Boston in New England 7th august. 1705. Nathaniel Coddington Esq^r, made Oath before his Excellcy Joseph Dudley Esq^r Governor to the truth of this Copy by him attested./.

Jurat. (being present) Is^t ADDINGTON *Secry./.* — *Ibid.*,

p. 141.

Apparently the first public intimation that Halsey had secured his complement of men appeared in the News-Letter, as follows: —

"*Newport-Rhode-Island, April 20.* Here is one *Bell* arrived from *Curacoa* bound for *Connecticut*, who says, that Capt *Halsy* got 30 able Sailors such as he wanted at *Jamaica*." — No. 53. *April 16-23, 1705.*

It would seem that upon the arrival of Halsey at Newport with his prize he libelled her for condemnation before Nathaniel Byfield, judge of the Court of Admiralty, who, thereupon, on the sixth of June, had proceeded so far as to order the ship to be surveyed, and the cargo to be taken out and stored under the charge of three watchmen; but upon view of Halsey's commission, granted by Governor Cranston after he had received notice that his authority to issue such commissions was denied by the crown, Byfield declined to adjudge the ship and cargo lawful prize to the captors, upon the ground that the commission was invalid, — it being issued in contravention of the queen's orders and the decision of the Privy Council that the charter of Rhode Island had conferred no admiralty powers.

The government and people of Rhode Island seem to have been greatly exercised at this decision of the judge, and it immediately became a topic of discussion both in Rhode Island and at Boston.* On the sixteenth, Governor Cranston addressed the following letter to Byfield: —

"Newport, on Rhode Island, June 16, 1705.

Sir: There being a Spanish prize brought into this port by Capⁿ John Halsey Com-mander of the private man of war, Charles, who was commissioned by myself against her Majesty's enemies, pursuant to her Majesty's Declaration of war, and particular command, to use our utmost endeavors to annoy the subjects of France, and Spain, &c., all which you have been and are well knowing unto, and have made a considerable step towards the condemnation of said prize; but for what reason you defer the full accomplishment thereof, I am not fully satisfied, though I know there was a pretence or scruple made by you, whether said prize was taken by a lawfull commission, &c.

Sir: Since the said prize was taken by my commission, which hath been deemed a lawfull and good commission by yourself, and is now as good as ever, though otherways pretended, in behalf of her Majesty, the Lord High Admiral and captors, I can do no less (deeming myself thereunto obliged) than to require a condemnation of said prize, according to law, and that you give your positive answer thereunto, and if by you declined or delayed, your reasons for the same, that such methods and measures may be taken as the authority of this her Majesty's Colony shall think most proper for her Majesty's service and the interest of her subjects, and encouragement against the common enemy. I am, Sir,

Your humble servant,

SAMUELL CRANSTON." — *Rec-*

ords [Printed] of the Colony of Rhode Island, 1678—1706, vol. III., p. 537.

* "... Capt. Halsey's Prize is not yet condemn'd." — *Boston News-Letter*, No. 60. June 4 to 11, 1705.

Three days later the assembly convened and passed the following preamble and declaration:—

"Whereas, our Honored Governor hath represented unto this Assembly, that there is a Spanish prize brought into this government by Capt'n John Halsey, Commander of the brigantee Charles, a private man of war, commissioned by himself against her Majesty's enemies the French and Spaniards, pursuant to her Majesty's Declaration of War, and particular commands unto this government, to use our utmost endeavor to annoy the said subjects of France and Spain; and that the said Capt'n Halsey having requested condemnation of said prize, of the Honorable Coll. Nath'l Byfield, Judge of her Majesty's High Court of Admiralty. The said Judge, after having made a considerable step towards the condemnation, pretended said prize was not taken by a lawfull commission, alledging that this government had no authority to grant any commission to private men of war, [and] so suspended the accomplishment of the condemnation, to the contempt of her Majesty's authority here established under the great Seal of England, and to the detriment of her Majesty's interest and considerable damage of the captors.

This Assembly have accordingly debated the matter, and considering the privileges and liberties granted in our Charter, as well as her Majesty's Declaration of War, and the particular commands to annoy the subjects of France and Spain, and severall instructions from time to time sent unto this government relating to the government of private men of war, &c., do deem the Governor of this Collony from time to time, as well as the present Governor, by leave and permission of the Generall Assembly of said Collony, have had and still have full power and authority to grant commissions to private men of war against her Majesty's publick enemies; and that the said Governors have been, and still are justified therein, provided they have and do take bond and do all other things as the law directs relating to private men of war." — *Ibid.*, pp. 535, 536.

The passage of this vote of the assembly, Byfield, in his letter to Secretary Hedges hereafter given in full, attributes to the influence of Colman, one of the owners of the Charles, and at the same time the "Agent for the Lord High Admiral, and one of the Commissioners for Prizes," and intimates that it emboldened the Rhode Island officials to be more audacious and clamorous in their demands for a judgment of condemnation to the captors than they would have dared to be without this show of authority.

Byfield, who had adjourned his court to the twenty-seventh, improved the intervening time in advising with Roger Mompesson,* judge of the admiralty at New York, and with Dudley, at Boston, and had fully made up his mind to condemn the prize to the crown, as having been taken without commission. But the owners in the mean time appealed to Governor Dudley in his capacity of vice-admiral, which commission embraced Rhode Island, who wrote to Byfield, at Bristol, stating that, "if speedy proceedings and condemnation be not made, all the cargo of the prize will be embezzled or lost." Upon receipt of this letter which, it seems, reached him on the day he had appointed for his decision, Byfield changed his mind, and adjudged the prize to the captors. While sitting in the case he was interrupted by "about eighteen lusty fellows" (probably the councillors of Rhode Island), who presented a paper to the Register of the Court with the demand that he read it, which Byfield forbade. This paper would seem to have been the above vote of the council. The judge's own account of the whole affair is given in the following letter to Secretary Hedges, above referred to.—

"Col Byfield to Sir Charles Hedges, Principal Secretary of State, relative to a Spanish Prize, taken under a commission issued by Governor Cranston, of Rhode Island.

Bristol [Rhode Island], July 19th, 1705.

Right Honorable: I humbly take leave to inform your Honor that it is now a year since his Excellency, Joseph Dudley, Esq'r, her Majesty's Captain General and Governor of the Massachusetts Bay, &c., sent me her Majesty's order in Council of the 28th January, 1703, referring to the irregularities practised in the proprietary Collony of Rhode Island and Providence Plantations, and her Majesty's letter of the 2d March, 1703, to the Governor and Company of that Collony, commanding them to submit to the Court of Admiralty, constituted by the Lord High Admiral, and to the powers of Vice Admiralty vested in Col. Dudley, Governor of the Massachusetts Bay, together with a letter from the Lords Commissioners of Trade and Plantations, dated the 17th March, 1703, referring to the said order and letter from her Majesty; upon receipt whereof, I went to the Governor of Rhode Island, and was with him upon the receipt of said order and letters, which he showed to me, and we read them, and he told me he had given a commission to one Capt'n Lawrence, and if he took any prizes he did expect that his commission should be acknowledged, and he would grant no more.

Yet upon the 7th of November last, the said Governor Cranston, granted a commission to Capt'n Halsey, Commander of the brigantee Charles, a private man of war, who the beginning of June last, brought a prize into Newport, on Rhode Island, being a ship of one hundred tons, laden with brandy, rum, wine, snush,† sugar, paper and oil, &c., which Capt'n Halsey acquainted me with soon after his arrival, desiring me to go down to condemn her; and at the same time, he moved for a warrant to unload her, she being very leaky.

Whereupon, I went the next morning to Newport, and gave order for a survey of the ship, and it being reported that the ship was leaky, the cargo was in danger, I made out

* Mompesson, appointed judge of the admiralty for New York and the adjoining colonies, April, 1703, arrived in Philadelphia the next summer. In July, 1704, he was appointed chief Justice of New York to succeed Chief Justice Bridges.

† His Excellency has been pleased to appoint Roger Mompesson Esq. Chief Justice of this Province to the general Satisfaction of it." — *Boston News-Letter*, No. 14. July 17-24, 1704.

From Paul Dudley's reference to him as "his father Mompesson" (*Seecal's Diary*, vol. II., p. 148, note), it is inferred that the former, while in England, had been his pupil.

† *Sic*, in copy: snuff?

a warrant, to unload her, and appointed three men to take charge of the cargo, and to keep each man a lock upon every door, untill condemnation.

And upon the 6th day of June, I held a Court of Admiralty, in order to the condemnation, having first told Capt'n Halsey that I had been ill treated of late by Mr. Colman, about the charge of a Court for condemning a prize in Boston; and he being one of the owners of Capt'n Halsey's vessel, I expected that somebody should engage for the payment thereof, being five per cent.; but nobody would. However, I proceeded in holding a Court; and upon examination of the prisoners, it appeared to be a Spanish ship, manned with Spaniards, and loaded with goods belonging to the subjects of the King of Spain, &c.; but when I found she was taken by Governor Cranston's commission, granted some months after his receipt of the Queen's commands, I declared I could not proceed to a condemnation upon that commission, for that I was a witness to the Governor's having received the Queen's commands to the contrary, and adjourned the Court untill the next day to consider, and found the Governor and people much disturbed at my questioning his commission. And I having taken care to secure the ship and cargo, I adjourned the proceedings unto the 27th June, in order to my taking the best advice I could obtain in so weighty an affair; I wrote to Mr. Mumpesson, the Judge of the Admiralty at New York, and went down to His Excellency, her Majesty's Vice Admiral of these parts, and when I had advised all I could, I returned home, fully determined to condemn the prize to her Majesty, as taken without any commission.

But upon the 26th June, Colonel Nicholas Page (who is one of the owners of the said private man of war) brought me a petition, which he, with the rest of the owners had signed, to his Excellency, the Governor, and his Excellency's advice thereupon, to condemn the prize to the captors, [a] copy whereof, I shall herewith send to your Honor.

The next morning, I proceeded to Newport, contrary to the advice of many of my friends, who told me there was a talk that if I do not condemn the prize upon Governor Cranston's commission, my life was threatened — however I proceeded.

And when I came to Newport, the Governor came to me, who I acquainted with what I had heard, and then proceeded to hold a Court of Admiralty. And in the first place, I did declare, that I had considered Governor Cranston's commission, on which Captain Halsey founded his information against the prize, and found that the Governor who referred to the Charter in the commission, had acted contrary thereunto in granting the same in his own name; when, according to the Charter, it ought to have been in the name of the Governor and Company, and that the Charter itself empowers them to resist by force of arms, as well by sea as land; and also to kill, slay and destroy, &c., all such person or persons as at any time shall attempt or enterprize the destruction, invasion, detriment or annoyance of that her Majesty's Plantation, which seems to fall very short of an Admiralty jurisdiction. And her sacred Majesty in her letter to that government of the 2d March, 1703, hath declared, that there is no Admiralty jurisdiction granted in their Charter. So that upon the whole, I could understand no otherwise, but that the prize was taken without a commission.

But having considered the petition of the owners, in behalf of themselves and Capt'n John Halsey and Company, to his Excellency, setting forth that they had taken a commission from the Governor of Rhode Island, which they supposed had been a good commission, but now were made to understand by the Judge of the Admiralty and otherwise, that the commission was not vallid and legall, the Vice Admiralty of Rhode Island being vested in his Excellency, and praying that the owners and captors, who had ventured their estates and lives, might have the full reward and benefit of their prize, as if their commission had been legally granted, together with his Excellency's advice thereupon, and the odd circumstances of things at Rhode Island at this time. I did adventure to condemn her a lawful prize to the captors, saving to the Lord High Admiral, &c.

When I had so done, about eighteen lusty fellows drew up to the table where I sat, and one of them delivered a paper to the Register and demanded of him to read it, which he going to do, I took it out of his hand, and told them that no paper should be read there without my allowance.

They replied, that they gave it [to] him as one of the Council of that government, and would have it read.

I told them he was there a Register of that Court, and should read nothing there without my allowance, and ordered the Court to be dismissed.

And when we came out, was hooted down the street by those fellows that offered the paper, without any notice being taken by any in the government there. The paper was directed to Governor Cranston, in justification of his commission, which I had just before declared illegall and void.

It is not the first time I have suffered in the service of the Crown, but hope care will be taken that her Majesty's Courts and officers may be treated more agreeably.

They would not (I do think) have been so absurd in their carriage, had not Mr. Colman (who is Agent for the Lord High Admiral,* and one of the Commissioners for Prizes) solicited that government to hold a Court for the condemnation of the prize, and put them upon passing a strange Act in that government, all which will appear by the copies of Mr. Colman's letters, and of Governor Cranston's letter to myself and of the Act itself; all which are herewith sent.

I humbly hope that my sincere desire and endeavors to serve her Majesty and her subjects in these parts, will be accepted, and that upon the whole, your Honor will see reason favorably to represent me to her Majesty; for I am devoted to her service. And pray that I may be allowed to subscribe myself,

Right Honorable,

Your most dutifull humble servant,

NATH'L BYFIELD.

* In August, 1705, Colman declared himself "Deputed by the Honoble John Dod Esq^r the Receiver of the rights and Perquisites of his Royal Highness Prince George of Denmark Lord High Admiral of England &c to receive w^t might become due to his Royal Highness in these parts." — *Mass. Archives*, vol. 2, p. 154.

To the Right Honorable Sir Charles Hedges, her Majesty's Principal Secretary of State. These present." — *Ibid.*, pp. 537-540.

The next issue of the News-Letter after the Court sat contained the following item : —

"*Newsport Rhode, Island, June 29 On Wednesday last Capt. Halsey's Prize was Condemned here at the Court of Admiralty.*" — No. 63. June 25 to July 2, 1705.

It does not appear that the owners of the Charles had applied to Dudley for a commission, or that he either granted or refused one to the commander. It was possible for Halsey to have sailed under commissions from two or more persons authorized to issue letters of reprisal, but from the following deposition and other papers in the archives it would seem that the son of the Governor and Commander-in-Chief and Vice Admiral, at Boston, had had some part in challenging the legality of Cranston's conduct, and that he was aware that the latter was not disposed to surrender a prerogative to which he believed himself entitled by the words of the charter of the colony of Rhode Island : —

"The Deposition of Paul Dudley Esq^r her Majesties Attorney General for the province of the Massachusetts Bay in New England and Advocate of the Court of Admiralty. — Who saith

That on or about the fifth day of June last past being at Newport on Road Island in Company with the Hon^{ble} Nathaniel Byfield Esq^r Judge of the Court of Admiralty &c., at the House of Samuel Cranston Esq^r Governor of sd Island. The sd Judge complaining of the sd Governor's granting a Commission to Cap^t Halsey a Privateer after the Receipt of her Maj^{ties} Commands to the contrary. The sd Samuel Cranston replied That he had taken the advice of the General Court of that Colony, who were all of Opinion That her Maj^{ties} Commands did not forbid him or Restrain him from Granting Commissions for Privateers. And That their Charter Granting them Power of Vice Admiralty he was determined to Exercise that power, and Grant such Commissions untill their Charter was actually and wholly taken away ; And that they would not part with their Powers or Government by piecemeal, but would Die all at once ; and That they had parted with too many of their privileges already. —

PAUL DUDLEY

Boston in New-England. /- 15o August. 1705. /-

Sworne in presence of his Excellency
the Governour. Before us :

Is^d ADDINGTON } of the
AND^d BELCHER } Council." — *Mass.*

Archives, vol. 2, p. 150.

It is quite possible that the known avarice of the Dudleys, father and son, may have led Halsey to prefer not to haggle over the extortionate demands of the Vice Admiral, or with the Advocate in a tribunal over which the father had something more than a moral control, and of which the son, by virtue of his office, was an influential member.

The presence of the foregoing papers on file with the petition suggests that in the legislature the petitioners may have encountered some opposition from the Dudleys, especially since it appears that the refusal to remit the whole impost as prayed for began in the council chamber.

From the following correspondence between the owners and Halsey, especially from Halsey's letter written from Fayal, it would seem that his commission was either renewed in Rhode Island, or that Dudley had been induced to grant him one at Boston, for it cannot be imagined that he was openly avowing his purpose to commit piracy by continuing to wage war against the queen's enemies without any show of authority : —

Capt John Halsey

"Boston September 10th 1705

We Cant but wonder at your long stay, we hoped you had ben at Sea before this time, but hear you are yet at Cape Ann : we pray you to be as Expedition as possible, and goe directly for the Banks of Newfoundland, and If you get any purchase on the Banks, Carry or send y^e Same to Medara or ffall and send us our part in wines, vnless you see Caus to send the Prises into this Port in the spring ; which If you doe, Your selfe and men shall have all Justice done you : and If you sell abroad we hope youl minde to make y^e Company pay their Two thirds of y^e Charges of Condemning &c, our third must be taken out of our third of the profits, we hope you will be sailed before this Reach you, If not that youl make all possible dispatch becans of the season & youl oblige

Yo^r Loving freinds

NICH^o PAIGE

Coppy

JOHN COLMAN for self & }
SE CHARLS HOBBS }
BENJA GALLUP for selfe & }
JOHN WALKER }

Capt Halsey at Cape Ann." — *Ibid.*, vol. 62, p. 501.

Gen^l

"Fayall Nov^r ye 23 1705 —

The 27 of Octobr I took a ship on the Banks of Newfoundland four Guns about one hundred and Thirty tuns a new ship I took out of her only one suit of sails 1000 pounds of Cordage with sundry other nessaries & have waited at this port 16 days for my prize intending to a sold her But she is not arrived am afraid she is missed this place. I desiro you to send to the West Indies, it may be they may be gone there my orders was positive to come to ffall I have ordered M^r Jeremiah Garvan to take her into his hands when Please God she arrives here the masters name is W^m Alston Intend for the Canaries and their to Cruize all this Winter The weather Proved so bad on the Banks was not able to stay there no longer I have Taken from M^r Jeremiah Garvan for sundry nessaries to the Value of Twenty five pound by Bill of Exchange am Your serv^t to Command

JOHN HALSEY." — *Ibid.*,

p. 512.

This letter from Fayal, in which it would seem that Halsey had not proceeded upon his voyage as expeditiously as the owners desired and as was required by a prudent consid-

eration of the near expiration of his commission, justifies the suspicion that he had received some authoritative assurances that any such trifling departures from the strict course of duty would for a sufficient consideration be overlooked and condoned. It was followed by a long-continued correspondence, in which is manifested the same easy indifference to consequences.

The following extracts from the representation by the Lords Commissioners for Trade and Plantations to the Privy Council show that Governor Dudley promptly communicated to them his animadversions upon the conduct of the authorities of Rhode Island respecting their attitude towards the laws of trade, and the irregularity of their proceedings in matters of admiralty jurisdiction, notwithstanding the cognizance which Byfield eventually assumed in the case of the brigantine Charles, and the decision made by him in accordance with Dudley's advice:—

"On the contrary, . . . some of these proprietary and charter governments, viz.: Connecticut and Rhode Island, . . . are the refuge and retreat of pirates and illegal traders, and the receptacle of goods imported thither from foreign parts contrary to law. In return of which commodities, those of the growth of these colonies are likewise contrary to law, exported to foreign parts; all which is much encouraged by their not admitting appeals as aforesaid. . . .

That they have refused to submit to Your Majesty's and His Royal Highness's commissions of Vice Admiralty, and for commanding their militia, and have defeated the powers given to the Governors of Your Majesty's neighboring colonies therein. . . .

That when he, Col. Dudley, went to Rhode Island to publish . . . [a] commission from His Royal Highness, by which he is invested with the power of Vice Admiralty, the Governor and council of that Island used indecent expressions, saying, they were ensnared and injured, nor would not give (nor have they since given) due obedience to the said commissions. . . .

The said Col. Dudley further gives us an account, that he had sent to the government of Rhode Island Your Majesty's order of council of the 28th of January, 1703-4, for repealing an act made in that colony for establishing Admiralty Courts there, unto which they had promised obedience. But that, nevertheless, after the receipt of such Your Majesty's repeal of that act, they had presumed to grant a commission to John Halsey, a privateer; and have by a declaration in their General Assembly, insisted that they have power so to do, though no such power is granted to them by their charter; which privateer having brought in a Spanish prize, they resolved to proceed to the condemnation thereof, in their pretended court, notwithstanding the admonitions which they received to the contrary, from Col. Dudley, and the judge of the Admiralty constituted for those parts by His Royal Highness."—*Records of the Colony of Rhode Island, 1707-1740, vol. IV., pp. 12-14.*

Chap. 63. This chapter is from council records, vol. VIII., p. 162. It is preserved in archives, vol. 111, p. 79.

The following is the petition referred to in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esqr Captain General and Governor in Chief in and over her Majties Provinces of the Massachusetts bay &c in New England. And To the Honorable her Majties Council and House of Representatives now in General Court assembled in and for sd^a Province Octobr 24th 1705./—

The Humble Petition of Deborah Cricke of Boston Widow

Sheweth

That yo^r Petitioner has for Several years past been an Innholder in the Town of Boston, and kept the half Moon, and this year yo^r Petitioner renewed her Licence for the sd House for the year Ensueing, and Entred into Recognizance to pay Ten pounds p Annum Excise Now so it is (May it please this great and General Assembly) That Since that time viz^t about Two Months ago yo^r petitioner has left off Selling Drink having Sold her House, so that her Licence is of no farther use to her.

Yo^r Petitioner therefore humbly prays the favour of this great and General Assembly That she paying So much of the sd Excise as is due for the time she kept her house after it was renewed, may withdraw her Recognizance without being obliged to pay any more, which would be a great hardship to yo^r Petitioner.

And yo^r Petitioner (as in duty bound) shall ever pray &c^{ra}/—

DEBORAH CRICKE."—*Mass.*

Archives, vol. 111, p. 79.

This petition was read in the House on the thirtieth, when the order which constitutes this chapter was passed and sent to the Council, for concurrence, where, on the second of November, it was read and agreed to, as shown in the printed chapter, and consented to by the Governor.

Chap. 65. This chapter is from council records, vol. VIII., p. 163. It is preserved in archives, vol. 71, p. 119.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley esqr Capt Generall & Governor in cheife in & over her Majesties province of y^e Massachusetts Bay in Newengland &c and to the hon^d the Councill & house of Representatives in Gen^l Court Assembled.

The Humble petition of severall of the Inhabitants of y^e Towne of Bradford

That Whearas yo^r Excelencies humble Suppliants were detached p order of Coll peirce by word of month to Capt David Hasletine y^e fore sd Honourable Coll peirce did order y^e sd Capt Hasletine to detach five soldiers which were to ward upon the River also to build a Block house on sd River within the Bounnds of sd Bradford in y^e year 1704. & haveing served her Majestie faithfully a Considerable time in sd post as will appear more particularly to your Excellency by an account hearwith presented; untill released from sd service by order of the Honourable: Coll Salltonstall Nevertheless your Exelencies peti-

tioners have not received our Wages for sd service nor sustenance alththough due for a considerable time & we humbly Conceaveing y^t yo^r excellency will not think it reasonable y^t any mistake in those whome it concerns us more immediately to apply on selves unto should be improved to y^e disadvantage of yo^r petitioners so as to deprive us of our Just & established due: upon which we have dependence for y^e support of our selves & families

Do^e Therefore pray y^t yo^r Excellency & Hon^{rs} in yo^r Great Justice & Wisdome would please to find out some effectuall way for y^e payment of our Just wages that so our suffering families may be relieved: & we inabled Thereby with chearfullness to undertake any future service: Which by yo^r Excellencys comānd may be Expected of us: & yo^r poor petitioners as in duty bound: shall for ever pray for yo^r Exelencyes Long & prosperus Government

ROBERT HASELTINE	JOHN WOOD
SAMUEL GAGE:	PHILIP ATWOOD
	JOSEPH BAILY." — <i>Mass.</i>

Archives, vol. 71, p. 148.

This petition appears to have been presented at the first session and to have been referred to a committee June 26, 1705, together with the following certificate by Captain Haseltine showing that he received his orders from the Colonel on the eighth of April and that in accordance therewith, on the tenth, he detached Corporal Robert Haseltine and four men under him to serve as a picket guard along the Merrimac, and to build a blockhouse "in the neck," and that on the twenty-eighth of June the blockhouse was finished and occupied by the soldiers so detached, who remained in service until the fourth of July:—

"April: 8: 1704

Then I Being w^t Collonell pearce Esqn at nybery he then being not well: Gaue me an order by word of mowth to detach five souldiers: one of them to be apoynted a corprill and to warde upon the reuer in ye neck also to Bulde a block hove in ye neck: and when finished the souldiers to reside theare and to kepe watch by night and to warde upon the rever by day

April: 10. 1704 then was detached	
Corpr ^{ll} Robert Haseltine	Samuel Gage
Joseph Baly	Samvel Burbank
John wood	as above sd

Jvne: 28: 1704 the above named souldires weare pllaced in the block hove: these souldires have not any thing alowed them; eather for tim or provishon: from. april: 10 to July: 4: : to the truth of what Is above written I set too my hand

Bradford. april: 18: 1705 DAVID HASELTINE Capt." — *Ibid.*, p. 150.

No further action upon the petition appears to have been taken until the third session, when the following petition, containing, besides an account of the services of his men, the items of his account for building the blockhouse, was presented by Captain Haseltine:—

"To his Exelency the Gov^r and Conncill and Representativs Now in Gen^{ll} Court assembled at Boston By agourment y^e 25 octobr 1704.

The humble petition of david hazeltine of Bradford.

most humbly sheweth.

That whereas your petitioner was Comanded By Coll Dan^{ll} peirce * (Late deceaded): To impress five men out of my Company forth with and To build one Blockhouse on this side merrimake River at a fording place Called Gadges Neck. I Received my order the 8 day of april. 1704. from our Collonell by word of mowth: he not being well and able To write. but farther Tould me that as soon as he was Capable he would send me up an order in writing. but his sickness Brought him to y^e period of his Time that he had no opportunity to write an order for me: however your humble petitioner hath observed my verball comānd and hath performed the dutys according to the Contents of what was prescribed. and impressed five men the 10th day of April. which I improved in building and scouting till the 28 day of June. at which Time the souldiers were placed in the house at their duty. and I am informed by our Coll That he hath not order to allow for any more Time then from their placing in the house at their duty there: whereby your petitioner is disinabled to pay for the service that was performed by 5 souldiers from the 10th of April to the 28 of June: though their service performed in that time was by the same order as afterwards. Your petitioner Therefore humbly pray that your hon^{rs} will pleas To Consider the premisses — that the five souldiers may be allowed their wages — for their service and labour with suteinance from their entrance into duty the 10th of april to the 28 of June. Together with my small disbursements of materials for effecting the worke of the Blockhouse. which is but a small mater as I shall hearin give the account. To you^r hon^{rs}

item: for 2 days worke with a Teem	00-07.-00
item. for 150 foot of bords and slabs for Covering	00-07 -00
item p Neiles l ^r . 64	00-01 -06

Your hon^{rs} may see by my Bill of cost that I have Endeavored not to be chargeable to the publicke: as for the worke of building it was performed by my souldiers in the Terme of Time abov^d Your humble petitioner prays. your honovrs to Grant what is hearin humbly offered which shall obllidge your petitioner as duty engadgeth me ever To pray for your hon^{rs}

octobr 23. 1704 DAVID HASELTINE." — *Ibid.*, p. 174.

The original petition was now taken up, and, on the twenty-sixth of October, was again read and recommitted, together, probably, with the other papers. The report of the committee is on file, without date, as follows:—

* "*Newbury*, April 22. [1704] The Honourable Col. *Daniel Pierce* Esq. one of Her Majesties Council for this Province Dyed this day." — *Boston News-Letter*, No. 2.

"In answer to ye petition of severall of ye Inhabitants of Bradford

The Comitte Report to ye Consideration of ye house That his Excl^y haneing appoynted according to ye act of ye Gen^l Court yt Coll peirce should ord^r ye sd work : w^{ch} ye Capt of ye Towne reports is done : That sd sould^s be payd Each for 12 weeks 5^s 4^d week & ye Corpl one shilling more each week : for wages : & three shillings 4^d week for their subsistance dureing sd twelue weeks, & fiftene shillings & six pence to Capt. David Hazeltine for materials & teame work as in ye sd ac^t," — *Ibid.*, p. 151.

On the twenty-seventh the order which constitutes this chapter was passed in the House, and sent to the Council, for concurrence, and on the third of November it was concurred in, and consented to by the Governor.

The order in Council* for the payment of these allowances was passed December 5, 1705, and the province treasurer's account† shows that they were paid.

See resolves, 1704-5, chapter 61, and note.

Chap. 66. This chapter is from archives, vol. 62, p. 511. It is recorded in council records, vol. VIII., p. 164.

Nothing has been discovered to show how the work of clearing the cut at Gloucester was finally accomplished — whether by Coit's immediate agents, or by workmen employed by the selectmen under the provisions of this chapter. It is certain, however, that the work was done, and that in a few years a very considerable number of vessels annually took advantage of this convenient means of escaping the perils of the outward passage around the cape.

Chap. 67. This chapter is from archives, vol. 71, p. 170. It is recorded in council records, vol. VIII., p. 160.

Römer having asked the Lords of Trade and the Board of Ordnance to be relieved of duty in the colonies was superseded by Captain John Redknapp.‡ Apparently unhappy at being thus taken at his word, he seized the opportunity of leave-taking with Dudley to renew his complaints of the treatment he had received, and to invidiously criticise the work of those who had been associated with him, or who had controlled him, in his labors as engineer. One of his later letters to Dudley, preserved in the Winthrop papers, provoked a severe rejoinder from Dudley and both are given below as illustrating the relations of these two high officials : —

"For her Maj^{ties} particular Service, To his Excell^{cy} Joseph Dudley Esq^r, Capt. Generall and Governour in Chief of her Maj^{ties} Provinces of the Massachusetts Bay and N: Hampshire in N. England &c, Boston.

PORTSMOUTH, Jun : y^e 7 : 1705.

S^r, — Yor Excell^{cy}s of ye tird^e instand I receved, being in answer uppon my two last letters of ye 24. & 31. May last past, but I find nothing to my comfort on the account of my just demands & for the good of the Queen's service ; as alsoo (in myn regard) because yor Excell^{cy} teakes not the least notice of my offers & proposals for the preservation of the common ease, neither to ye deserving honnour of my self, & whereas, *rebus sic stantibus*, I can not withstande the lycke hardships, I must therefore submit. Yor Excell^{cy} is pleased to say that Capt Redknapp is to repaire ye breatches occasioned by the last vyolent storm & high waterflood, & that ye appartements (soe well for officers as commⁿ soldiers) & what further belongs to the defence of ye Fort Will^m & Mary, you would be glad to see it donne ; and will procede further when the Assembly of this Province can be brought to advance mony for it. Then, perhaps, as affaires of waar are now circumstanced, it mae be to tease & provee very hurtfull ; therefore, I thincke yor Excell^{cy} could not have a better opportunity as now before you, to finishe ; and yor Excell^{cy} must be sensible of it, considering that in this juncture it is of the highest necessity, to secure that place by the *chevaux de frise* ag^t surprise : item, ye ravelin before the gate & convering of ye same, & by that means to makee a good correspondency for a relieff, if occasion should offer ; & lykwyse the trust-work of ye whole poligon towards the neck, together with ye centry boxes & the settling of all that belongs to ye preservation of ye well, soe that a high flood mae not corrupt ye same in tyme to come, is at present all of the greatest necessity & my duty soe to lay before yor Excell^{cy}.

Yor Excell^{cy} is pleased to say again that there is no mony in the Treasourey. Now Capt Redknapp can not worcke, nor meand the breatches, without mony ; neither will he (as I perceve by others) be suche an unwyse man as I am, to offer that whad I have offered, nor do what I have donne : as in paying & ordering the mony, & pinching the same on all accounts, & in providing materials &c. Yor Excell^{cy} is sensible how often I have petitioned to you in order to be discharged of all those things *et ceteris paribus*, but could not obtaine it ; therefore I hope to have donne as an obedient & faithfull servant, and every where complpyed to advance the Queen's and contry's service, according to ye liability & constitution of ye same ; and if I had not donne soe, all the worst might be sensible of it, thad every thing would have been carried on to a great charge & loss of the people. Therefore I thinck to have reason on this present occasion, if anny thing should miserey or provee fatall for want of finishing, it can not be imputed to mee. Therefore I must *solemniter* proteste against it, and only say that I have not deserved (on account of ye forementioned reasons & soe slavish service in obeying & submitting to yor Excell^{cy}s orders & commaunds,) suche hard imdurations as no notice taken of my proposals ; & that I have written on that head to Whitehall. And if it must be soe, then I shall leave Capt Redknapp in his good oppinion, & in a more weiser & better conduct to his quietnes, & shall be glad to see that hee (according to his oppinion) can & mae do better service then I have

* Executive Records of the Council, vol. 4, p. 246.

† Mass. Archives, vol. 122, p. 258.

‡ The first mention of Redknapp that has been discovered is in Dudley's speech to the Assembly, May 31, 1705, showing that he had then already inspected the site of the proposed fortification at Winter Harbor. See note to chapter 57, *ante*.

donne. And as by yor Excell^y pleasure I shall & must desiste, in case yor Excell^y should not tacke other mesures on the oppinion taken y^e 4. instand by her Maj^{ties} Council of this Province, on account of my Memoriall then tendred to y^e same and sent by this tyme to Boston for yor Excell^y aprobat^{ion}; so I shall tarry heare a little time longer, humbly praying that yor Excell^y will be pleased to grant me leaff (as you must be sensible that it is my due in all reason) to finishe, and to pardon that I must trouble yor Excell^y onse more. In expectation of yor Excell^y favorable answere, Sr

Your Excellency's most humble & obedient serv^t,

WOLFOANO ROMER."

— Part V., p. 547.

To the foregoing letter Dndley replied as follows:—

"BOSTON, 11 June, 1705.

S^r,—I have your very surprizing letter of the seventh instant, by which I perceive, after your huffing all mankind in these Provinces, you intend to treat mee after the same manner & use the word protest upon mee, & your slavish service in obeying & submitting to my orders & your labouring to insinuate with the gentlemen of the Council, who have nothing to do with you nor her Majesties fortifications unles by my express directions, which I thought a man of your education had known, especially having often yourself told them that you had nothing to do with any body but the Governour. Sr, I will now tell you plainly that your angry & harsh treatment of every body these three years since my arrivall (the Lnt Governour, the Concellors & Comissioners of the Works, officers and soldiers) has been such that there is an universall displeasure taken against you; so as that I know no freind you have in these governments except my self, who have always shewed you the just respect of your services & merriits, accounting & declaring the same to every body that your place being filled with another was at your own earnest solicitation to the Right Honorable the Lords Comissioners of Trade & at the Board of Ordinance; and that I have their comands accordingly to receive Captain Redknapp as her Majesties Engineer in your place, & which I have obeyed, & desire you will inform him for her Majestys service what wants to be finished or repayred, & he has my warrant to persue the necessary [blank]. I cannot employ two Engineers, least therby I contract a charge upon the Crown vnnecessary, which I have never yet done, but whatever you agree with Captain Redknapp to do I shall accept the same well. This I say to you to make you easy, if your own temper will allow it, & shall be willing to serve you when you see your error in your late proceeding, & when you shall pay that respect to Captain Redknapp, who succeeds you, as the Queens service demands. I desire you whenever you shew your letter to mee of the 7th of June, you will shew this answer with it, & they that know my station here, & my temper as well as inclination towards you, will take it for an answer.

I am Sr your serv^t

J. D."—*Ibid.*,

p. 549.

That the rebuke thus administered by the Governor did not enre Römer's censoriousness nor curb his vanity appears by the following "remonstrance," which was addressed to the General Court in their third session:—

"To his Excellency Joseph Dndley Esq; Captain General and Governor in Chief in and over her Maj^{ties} Province of the Massachusetts-Bay in New England And To the Hon^{ble} her Maj^{ties} Council and Honse of Representatives now in General Assembly convened in and for sd Province October 24th 1705/.

The Humble Remonstrance of Col: Wolfgang William Romer.

Since after my many repeated Petitions to the late King William of ever blessed memory, and to her present Majesty our great and gracions Queen Anne she hath at last of her great goodness been pleased to give me leave to return home; Before I depart I would according to my duty adjust and Settle every thing relating to her Majesties Service as far as in me lies, as also what concerns my particular affairs relating thereunto (after my Eight years Service on the Continent of America) So that I may not hereafter Suffer under the Imputation of any Injustice or Reproach—

When I was by a vote of this Hon^{ble} honse obliged to desist from the Work att the Castle, and the same devolved on Thomas Brattle Esq; & Capt Timothy Clarke upon a Supposition that they had my directions as by the Same vote appears; I did afterwards upon Mr Brattles application to me give Some Satisfactory directions in what he proposed and desired, but he never had, nor requested any Draught or Scheme of me; neither have they in performing the Work attended the Rules I gave them, So that through the Unexpectness of Capt Clarke the work done is very Irrationally and Ridiculously, altogether contrary to Reason and the Rules of Military Architecture, which I am ready to demonstrate when required.

I now take leave to lay before this Hon^{ble} Conrt, for her Maj^{ty} and the Provinces Service, in a few paragraphs, wherein the Castle is not compleat, and what for the preservation thereof is further highly necessary to be done—

1stly The Espolement for the Secnring of the S.E: Powder house is not done, neither from the Contragnarde as of unavoidable necessity, and to the highest degree necessary Communication with the Lowermost fortification and Battery—

2^{dy}ly The Coverd way for the Communication from the N.E: Gate of the Upper Castle with the N: W Sallyport of the lowermost work is not tought on which is a thing of great moment that the same should be according to Reason in Military Art Traversed thus that I may have a Reasonable Communication with y^e lowermost fortifications, so that an Enemy could not know my strength, and motions if an attaque should happen, as in this Juncture it may, before we think of it.—

3^{dy}ly The Demi Bastion is not tought on, neither did they know how to begin it, and less how to proceed for the finishing the same. This is all what was from the begining proposed, as by my Memorials & Especially the last of the 16th March 1703/4 will appear, and I am ready upon yor Excell^{ties} order to Satisfy Capt Redknapp in every thing relating to these three Articles, and what further to the security and preservation of the Castle is necessary to be observed. viz;

Inpris The Aquaducts in a work so built on the Sea side, up and down Hill are of great observation, therefore singular care should be taken about the Same, Yo^r Remonstrant has made a great progress towards setting y^e Same, almost finished Some, & others in part begun & shewn the way and means how to finish the same, but I being put off they are wholly neglected & nothing done towards the Same, a great prejudice is already occasioned thereby, and if any Inundation, or great Gust of water should come & occasion a Destruction (which cannot befall the works if the water leadings are finished as begun and proposed) the fault will not be mine.

2dly. I have two years ago, as is well known, and from the beginning urged the pointing & rough casting the Brick walls and Quarry stone works where the severity of the frost and N: E Rude weather has Endamaged them, and this to be done in the Month of May by an honest, understanding Man, that knows how to prepare two Sorts of Mortar for that purpose, and so once well done, it will be for ever in a manner provided That when a Severe blow may occasion Some little hurt that a Mason on the Castle may take a Trowell of Mortar to mend it, which will certainly be the Care of the Commander there, and whereas at the N: E part Some Brick & Roughstone Walls are almost bare & have but little support, perhaps next year the cost and charges of pointing and repairing, will be Six times more than it would have been the last year—

3dly. There is no care taken about the breaches in y^e Sodwork occasioned by the violent N: E. rainy weather and Storms; and other necessary things More, &c. If the 75th sent into the Treasury had been well Employed, it would have made the aforementioned Espolement, Communication line by the powder house mean covered way, all the breaches &c. repaired, the Aquaducts, made and every thing brought into good order. But this must be so, and a favourable *Commendamus* for Cap^t Clark to shew what a good Husband he had been in taking off the Lead from the platform, to the great disfiguring & hurt of that part of the Castle; And to leave the most urgent and necessary works unfinished, The Breaches unattended, and the joints in the Brick & stone Walls unpointed. As also the pallisadoes designed for the Castle use taken away, likewise the oak planks for to make Madriers on the lowermost works, and by the same to cover the Defence thereby to secure the Gunners and people that must work the Guns, taken for other uses from the Castle. All which I leave to yo^r Excellency's and the great and General Courts prudent and serious Consideracons.—

My Son John from the year 1700 till 1703¹ has been of very Considerable Use, and Service in the Works att the Castle, which he has attended with Constant diligence and application, as is well known, which has as yet been unregarded; and he has not Ten shillings y^e Diem, in England nor any other allowance, as has been most falsely reported, for any of his Services; If this Honorable Court shall think him unworthy of a reasonable Encouragement then I humbly pray in his behalf, they will please to grant him a Certificate So far as concerns matter of fact. All which I leave to yo^r Excellency and the great & General Courts prudent Consideracons—

WOLFGANG W. RÖMER."—*Mass.*

Archives, vol. 71, p. 170.

Before this remonstrance had been presented the completion and dedication of Römer's work on Castle Island were celebrated,† on the spot, by the Governor and attendants, and an appropriate mural inscription, in which for the first time the Castle received the name of "Castle William," was placed in honor of the event and of the engineer. Of this ceremony the executive records of the council contain the following account:—

"Oct. 29, 1705. His Excellency acquainted the Council that on Friday the 21st † current he visited the Castle, being attended with Colonel Römer her Maj^y's Engineer, and several Gentlemen, and that by her Maj^y's especial commands he had caused the following inscription cut in fair letters on stone § and gilded to be set up and affixed on the Castle, viz: ANNO DECIMO TERTIO REGNI GULIELMI TERTII. MAG: BRIT. FR: & HIB REGIS INVICTISSIMI, HOC MUNIMENTUM (EX EJUS NOMINE WILLIELMI CASTELLUM NUNCUPATUM) FUIT INCERTUM ANNOQ; SECONDO REGNI ANNE. MAG. BRIT: FR: & HIB REGINE SESERINISSIME PERFECTUM—ANNOQ; DOMINI M.D.C.C.III.

And underwrit in a smaller Character. A TRIBUNO, WOLFGANGO WILLIELMO ROMERO REGIARUM MAJESTATUM IN SEPTENTRIONALI AMERICA ARCHITECTO MILITARI PRIMARIO CONSTRUCTUM."—*Vol. 4, p. 230.*

Whether this remonstrance was purposely withheld by Römer until the inscription in his honor was placed, or its presentation was prudently delayed in the council chamber, does not appear, but it is certain that it was not read at the Board until the thirty-first of October. The proceedings that ensued are shown in their order in the chapter, as printed.

For proceedings relative to gratuities to Colonel Römer and his son, see resolves, 1706-7, chapters 3 and 10, and notes.

* *Sic*: at the.

† Of this event Sewall makes the following memorandum in his diary:—

"Seventh-day 8th 27th [1705]. . . . It seems the Castle is ordered to be call'd *Fort William*; and the Governour went yesternow, and caus'd the inscription to be set up, a pretty many Guns fired. 8th 27th, as I was writing to my Brother, I ask'd the Gov^r: told me 'twas so, and directed me to tell my Bro^r that when he writ his account of Storey, he should style Salem Fort *Fort-Anne*. . . ."—*Vol. 11, p. 141.*

‡ *Sic*: twenty-sixth.

§ " . . . And Col^d Römer presented a note of the charge of the stone, the cutting of the Letters, gilding and painting of the same, amounting to Two pounds sixteen shillings, which was allowed—And.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of Two pounds, sixteen shillings to the s^d Col^d Römer accordingly."—*Executive Records of the Council, vol. 4, p. 231.*

The above inscription follows the record strictly, but is clearly inaccurate. From a fragment of the second stone in the custody of the Massachusetts Historical Society (and a heliotype of

The two committees appointed in this chapter "to Consider what may be at present necessary to be done" at the Castle were accompanied by Redknap on their visit to the island, who, on the twelfth, presented to them the following report:—

"Boston November 12th 1705.

Whereas there was an order of the General Assembly of y^e province of the Massachusetts Bay in New England, That a Committee of both Houses should go down to Castle William at Boston aforesaid there to view the Works, the Gentlemen appointed for the sd Committee were Colon^l Hutchinson, Col^l Townsend, and Cap^t Belcher of the upper House, and Col^l Checkley and several other Gentlemen of the Lower House, and Whereas according to an order reced: from his Excellency the Gov^r I the subscriber—her Majesties Engineer was appointed to go down with the sd Committee, in order to propose to them, what I thought farther necessary to be done for y^e finishing of the sd Works and to make Report of the same:— /—

First It is very necessary That the Blind that is already begun should be finished for the security of the powder-House, and other advantages which will be drawn from it;

2^{dly}: The Sodwork Ravelin before the lower gate wants to be repaired.—

3^{dly}: There wants to be made a Line of Communication of pallisados That the Garrison may pass from the upper to the Lower works without danger of being discovered — /—

4^{thly}: That at the End of the sd Line of Communication there be a small Guard house, built, able to contain fifty men upon occasion, that the Garrison may be augmented, they would be mightily straitened for want of Room, It would be likewise a very necessary place for keeping their dry provisions, which is often Endamaged by reason of the dampness of the Vaults.—

5^{thly}: That in the Well that is in the Lower works, there be something fixt, not only for the Convenience of drawing it, but to prevent several mischiefs that may happen by its lying as it now dos, — /—

6^{thly}: That at the End of the Line of Pallisados, where a Demi Bastion, or something else to be raised for the security of that part of the Island, the same is very necessary to be taken care of. — /—

7^{thly}: That considering the largeness of the whole works, and the violent weather that happens sometimes in these parts, it would be very necessary to have a mason continually upon the place, for the mending and pointing any little damage that may from time to time happen to the Walls, and That there be also a Carpenter, whose whole Employ should be to look after the Battery Platforms, and the severall Gutters that are made of Planks, for the Conveyance of the water from the several parts of the Works, I Judge two such men may be had for very little more pay than that of a private Centinell.—

8^{thly}: Whereas severall little Repairs are wanting about the whole Work, the same would be done with far less charge if taken in time, that* it will be if neglected.—

It would be much better if the necessary House were taken a little lower because as it is at present it takes away the defence of two flanks, which are the principal strength of any Fortification/— Sign'd by me

Her Majestie's Engineer General
for the Continent of America

J REDKNAP." — *Mass.*

Archives, vol. 71, p. 179.

The committee of the Council appended to the foregoing report the following certificate, containing one objection and an additional recommendation:—

"The within named Comitte approve of the Several articles before going, (Except the fourthth which may be very Necessary in convenient time) Also Recommend, That the top of all the walls of the fortification, (after they are well poynted) may be covered with cedor boards, or Shingled, to Secure them from the voyolence of the wether, which will prevent much future Charge.—

ELISHA HUTCHINSON

Þ ord^r of the Comitte." — *Ibid.*,

p. 181.

which appears in vol. XVII., opposite p. 20, of the Proceedings of that society) the following partly conjectural reading has been constructed, and is believed to be correct:—

ANNO DECIMO TERTIO REGNI GULIELMI
TERTII MAG: BRIT: FR: & HIB: REGIS
INVICTISSIMI. HOC MUNIMENTUM
(EX EJUS NOMINE WILHELMI CASTELLUM
NUNCUPATUM:) FUIT INCEPTUM.
ANNO SECUNDO REGNI ANNE
MAG: BRIT: FR: & HIB: REGINÆ
SERENISSIMÆ PERFECTUM ANNOQ:
DOMINI MDCCIII.

a Tribuno Wolfgango. Wilhelmo
Romero Regiarum Majestatum
in Septentrionali America Architec
-to militari primario constructum.

The entry of payment is in *Mass. Archives*, vol. 122, p. 249. This first stone was shaken from its place, and being broken in the fall was replaced by another for which an additional allowance was ordered, as follows:—

"Sept. 13, 1706. Advised and Consented. That a Warrant be made out to the Treasurer to pay the sum of two pounds, eighteen shillings to Colonel W. William Romer for the Charge of Cutting painting and Gilding of a stone affixed on the Wall of her Majty's Castle William, with the Inscription Ordered by her Majty's Especial Command. The former being shaken down and broken." — *Ibid.*, p. 315.

The entry of payment is in *Mass. Archives*, vol. 122, p. 281.

* *Sic*: than.

On the nineteenth this certificate was read in Council as the committees' report "and accepted, with Thanks to the Committees for their Service." This vote was sent for concurrence to the House, where it was read on the next day, and no further action upon it has been discovered. But see note to chapter 114 of the resolves of 1706-7.

The word "done" in the margin opposite two of the clauses in Redknapp's report appears to have been written at a later date, probably after the changes recommended had been completed.

Chap. 68. This chapter is from council records, vol. VIII., p. 165. It has not been found in the archives.

The resolve which constitutes this chapter was a continuation of the allowance granted by resolves, 1704-5, chapter 55.

The order for a warrant to the province treasurer and payment thereof are considered in the notes to chapters 44 and 72 of the resolves of 1706-7.

For an account of the sufferings of the inhabitants of Deerfield inflicted by the French and Indian enemy see resolves, 1704-5, chapter 6 and note. Immediately upon the great desolating invasion of February 29, 1703-4, those of the militia of the town who had not been killed or carried into captivity were impressed into the service of the province and ordered to act as a garrison, under pay. By the wages and subsistence received by them under the regular establishment they were enabled to escape starvation but not to retrieve the losses they had endured by fire and robbery or even to bear the ordinary burdens of a township. In view of their deplorable condition the province contributed, as appears in this and a former chapter above referred to, to the maintenance of a minister among them. Their compensation under the military establishment having ceased December 1, 1704, although they continued in the service until midsummer, they applied to the Legislature during its second session this year that pay and subsistence be allowed to them to the end of the term of their enlistment. This reasonable request was approved of by a vote of the House of Representatives, which was a sufficient warrant to the Commander-in-Chief to restore them to the regular pay-rolls without the passage of an act or formal resolve. Their petition, the vote of the representatives thereon as finally drawn, and the order in Council for a warrant to the province treasurer for paying them, accordingly, to the time they were mustered out, are given below:—

"To His Excellency Joseph Dudley Esq^r Captain Generall and Gouverneur in chief of Her Majesties Province of the Massachusetts Bay, And To the Honorable the Council of the said Prouens & Representifs of y^e same

The Petition of the militia of the Town of Dearfeild

most Humbly sheweth

That after the Bloody Desolation made by the french and Indian Enemy in the ^{s^d} Town on the last of february 170³ we were unanimously Determined to Desert the Town and seek shelter and safty wher we could find it: But the Hon^{ble} Lt^{col} Sam^l Patridge Issued forth a warrant wherely we were Impressed into Her Majastys service and Posted as Garrison souldiers in the ^{s^d} Town and our hopes of seauing our Lines by quitting our Habitations superseded by fear of Incurring the Penelty of Deserting Her majstys service And haue Continued euer sence the 2^d day of march 170³ under the ^{s^d} Impresse not being as yet Dismissed, so that we are uncapable of Attending our businese to Procure a maintenance for our selues and families as otherwise we might Haue done, being obliged to be in actuall Duty as souldiers three fifth parts of our time.

And in Confidence that we should Receive the Pay & Subsistance of those in Her majstis searuis we went to the neighbouring Towns & run in debt for Prouisions to sustain our selues and familis and upon the same Expectation haue been Credited by them. we Haue also thankfully to Acknowledge that the Account for our Pay & subsistence hath been accepted and Passed by your Excellency & Honers to the first day of Desember last but understand by Col^o Patridge that our Pay and subsistence for the time sence that, is not aloned which Constrains us further to Acquaint your Excellency & Honers & submitio* to your favourable Consideration, that when the Enemy slew and Captuained the one halfe of our Town they also Plundrd & Destroyed the greatest Part of our Prouisions and Stock of cattle That the last Sumer the frequent Alarums & continuall Expectation of the Enemy with our obligation to Attend the Duty of Souldiers, Put us by our Labour so much that our crop of grain on which we Depend for or Livelyhood was inconsiderable. That we wear in no wise capable to Discharge the Debts we haue already Contracted for Supply of our necessities If we may not obtain Pay for our Searuis & Subsistans for the time past. And we Expect that as soon as it shall be known that we are Dismissed the searuis, and to haue no Pay, that our Creditors will Arest us for what is now due, & trust us no more for the futer

We therefore Most humbly Pray your Excellency & IHonrs to Take the Premises into your Compasinate Consideration and Grät us wages & substians for so long time as we are Continued in the searuis and when we shall be Dismissed such Protection as that we may be enabled to follow our Husbandry And we shall use our utmost Diligence & Endeouours to be no further charge to the Publick

And y^r Petiti^or shall As in Duty Bounnd ever Pray

JONATHAN WELLS in the Name &
Behalf of y^e Rest

In the House of Representatives

Septem^r 6th 1705. Read.

11th

Read. In Answer to the above Petition.

Resolved That the Inhabitants of the Town of Deerfield, That were Impressed into Her Maj^{ties} Service for the Defence of the Said Town, be Allowed for their Subsistence and wages, from the time that they have been paid already, until the 27th of July last,

(being then dismissed) The wages, of all officers, as well as Souldiers to be one Sixth part lesse than is allowed to Such as are marching in the service.

Sent up for Concurrence.

THOMAS OAKES Speaker." — *Mass.*

Archives, vol. 71, p. 166.

"Dec. 4, 1705. A Muster Roll of the Souldiers posted at Deerfield in West Hampshire, under the Command of Lieut^l Colo Partridge, being chiefly of the Inhabitants, containing an account of Wages for their service, from the 1st of December 1704, to the 27th of July 1705, amounting to the sum of Three hundred pounds, thirteen shillings and ten pence; having been examined by Mr Commissary General, was presented. And.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the above sum of Three hundred pounds thirteen shillings and ten pence to the said Colo Partridge, on behalfe of the Officers and Souldiers therein named." — *Executive Records of the Council*, vol. 4, p. 241.

The province treasurer's account* from May 31, 1705, to May 31, 1706, shows a payment of £399 12s. 6d. to "Col Samuel Partridge on behalf of the Officers & Souldiers posted at Deerfield" from October 20, 1704, to July 27, 1705.

This included payment for the services of a regularly enlisted company, which was under Partridge and commanded by Captain Jonathan Wells, posted at Deerfield, in the autumn and early winter of 1704-5. Their pay, amounting to £98 18s. 8d., deducted leaves just the amount named in the above warrant.

Chap. 69. This chapter is from archives, vol. 11, p. 199. It is recorded in council records, vol. VIII., p. 165.

The resolve which constitutes this chapter was passed upon the following petition:—

"To his Excell^{ty} Joseph Dudley Esq^r Capt^l Gen^l & Govern^r in Cheife to the Counsell & Representatives in Gen^l Corte Assembled the 24 Octobre 1705

The Committee for Brookfeild & Inhabitants

Humbly propose to this Corte

That was they have procured m^r Gravener for to be a Minister to Preach the word to them The people being Unable fully to Mainetaine a Minister We Earnestly Entreate Consideration & allowance towards Support of s^d Minestr in preaching y^e word of God there, m^r Gravener proposes that if the Publique allow 30^{li} he will accept of the people to pay the Rest to make up a Sutable allowance & This for One whole year & so for as Long as its Judged meete he abide in s^d Service dated as abovesd

ψ } SAMLL PARTRIDGE } In y^e Name & behalfe
 } JOHN HITCHCOCK } of y^e Rest of the Com-

mittee and Inhabitants of Brookfd." — *Mass. Archives*, vol. 11, p. 199.

This petition was read, first, in the House on the sixth of November, and on the following day it was read again and the resolve was passed as here printed and sent to the Council for concurrence, when the Council added the following proviso: "Provided the minister be Approv'd by the Govern^r and Council."† When the resolve thus amended reached the House it was returned to the Council with a vote and resolution thereon to adhere "to their former vote." This was on the eighth, and on the next day the Council "Agreed to withdraw the Proviso."

The order in Council‡ for the payment of this allowance was passed November 13, 1706, and the province treasurer's account§ shows that it was paid.

Chap. 70. This chapter is from archives, vol. 40, p. 819. It is recorded in council records, vol. VIII., p. 166.

For the petition upon which the resolve which constitutes this chapter is founded, and for a full statement of all the matters at issue between the parties therein named, see private act, number eighteen.

See, also, resolves, 1706-7, chapter 19.

Chap. 71. This chapter is from council records, vol. VIII., p. 167, and archives, vol. 71, p. 136.

The petition mentioned in the preamble to this chapter is as follows:—

"To his Excelency Joseph Dudley Esq^r Capt^l Generall & Gouvern^r in Cheefe in & ouer hir Magtys: pryncie of y^e Massatucets-Bayⁿ in New England: & the Honnerable Council & Representatives in Generall Courte Assembled this 7 Day of June= 1:7:0:5.

The Honnble Petishone of Sarah Conant widow: Relict of Josuah: Conant Late of Saylum Deceased

Humbly sheweth

That your Petitioners Hosband Josuah Conant was in y^e yeare= 1692: posted att his Magtys: fort att winter Islande in Saylum: by a warrant from Sr: William Phipps: wheare hee was Contayned by y^e Gonnmente from time to time: for seuerall yeares as Gunner: to y^e said forte: for which sarvice their is a Considerable . . . some of Money Due as will Appaere by y^e Last Petition y^e which M^y said Hosband petitioned to y^e Generall Court: & is now on file: their: & m^y Hosband having Left Mee very poore with fore small Children for to Mayntayne:—

your Petitioners Doth humbly pray your Consideration of y^e premisses: & that you please to order what is Due for m^y said Hosbands: searvice to bee paid vnto Mee for y^e support of M^y selfe & Deare Children= & your homble Petitioners shall Euer pray &c.—

The Honned Court may please to take Cognicence that M^y Husbands: Money still Due for his sarais: is y^e some of one hundred forty & sixe pounds as his Accompt^s will make Appaer if Desired: by y^e honned Court." — *Mass. Archives*, vol. 71, p. 136.

* *Mass. Archives*, vol. 122, p. 250.

† *Ibid.*, vol. 11, p. 199.

‡ *Executive Records of the Council*, vol. 4, p. 334.

§ *Mass. Archives*, vol. 122, p. 275.

This petition was presented at the first session. It was read in the House on the twentieth, and again on the twenty-first, but no further action upon it appears of record until the third session, when it was read again in the House on the seventh of November, and on the ninth the resolve which constitutes this chapter was passed and sent to the Council for concurrence. It was read and concurred in on the next day and consented to by the Governor.

The order in Council* for the payment of this allowance was passed December 5, 1705, and the province treasurer's account† shows that it was paid.

See resolves, 1700-1, chapter 95 and note, by which it appears that up to October, 1694, Conant had received but twenty-five pounds. Ten pounds more were allowed to him in the resolve last referred to, which, added to the previous grant and the sum allowed in the present chapter, make a total of sixty-five pounds.

The above petition indicates the date of Conant's death as nearly as it can be ascertained from any paper or record that has been discovered. He was born in Salem, April 15, 1657—the son of Joshua and grandson of Roger Conant, the leader of the Cape-Ann colony. It is said that he removed to Truro on Cape Cod about 1700;‡ but by resolves, 1700-1, chapter 95, it would seem that he was still gunner at Salem Fort March 15, 1701, and his widow, in her petition, describes him as "late of Salem."

Chap. 74. This chapter is from council records, vol. VIII., p. 167. It has not been found in the archives.

The twenty-shilling counterfeit bill of credit "annexed" to the original order probably tempted some one to take it from the files. Very likely it is in some private collection, like many other public papers that have disappeared from the Secretary's office,

Chap. 75. This chapter is from council records, vol. VIII., p. 168. It has not been found in the archives.

Notwithstanding the promise of Courtemanche that the envoys should not be detained at Quebec more than ten days, and Dudley's request that Vandreuil despatch a courier overland immediately upon the arrival of the brigantine, more than four months had passed § since her departure without any tidings of her arrival at Quebec or any response from Vandreuil. During this time the French and English governments in the West Indies had been keeping up their cartel, and Dudley was preparing to send to Port Royal all the French captives at Boston in the hope of receiving English prisoners in return.

Dudley evidently was annoyed and disappointed if not alarmed at this long silence of his envoys. He therefore determined to take measures to ascertain in the speediest manner the cause of the delay. Hence the proposal described in this chapter.

No copies of the letters therein mentioned have been found, nor has it been ascertained that any such letters were actually sent. No record has been found of the receipt of such letters by Vandreuil, and since only eight days after the passage of the vote the brigantine returned, bringing Vetch and the Governor's son, it is likely that the letter, if written, never reached Canada.

See note to chapter 83, *post*.

Chap. 76. This chapter is from council records, vol. VIII., p. 168. It has not been found in the archives.

The petition mentioned in the preamble to this chapter is also missing. The following extracts from the records show that upon this motion by Carr to have the former action of the Legislature reconsidered no definite result was reached:—

"June 5, 1706. The Case of Richard Carr upon his Petition referring to a Claim of Privilege in the Ferrys over Merrimack River between Newbury & Salisbury, And the Towns of Newbury & Salisbury were fully heard before the whole Court."—*Council Records, vol. VIII., p. 195.*

"June 6, 1706. Upon a full Hearing yesterday of the Case betwixt Richard Carr by his Petition to this Court, referring to a Challenge of the Privilege to the Ferry over the lower Part of Merrimack River, & the Agents of the Towns of Newbury & Salisbury.

Resolved that the said Richard Carr take Nothing by his Petition, And that he pay Costs to the said Agents of Newbury to be taxed by Samuel Sewall Esq; & the Secretary: *Wch* Resolve was sent down to the Representatives for Concurrence."—*Ibid., p. 196.*

"June 26, 1706. The Resolve pass'd by the Council on the sixth Instant in the Case of Richard Carr against the Towns of Newbury & Salisbury referring to his Challenge of the Privilege of the Ferry over the lower Part of Merrimack River, was Disagreed to by the Representatives:—And an Order made thereon by that House was sent up; *Wch* being Read & the Question being put for Concurrence; It was Carried in the Negative."—*Ibid., p. 210.*

The order of the House last referred to has not been found in the archives.

For particulars relating to the history of the controversy respecting the ferry over the Merrimac, between Newbury and Salisbury, see the note to resolves, 1693-4, chapter 12, and private act, number forty-one. See, also, chapter 106, *post*, and chapter 98 of 1706-7.

Chap. 78. This chapter is from archives, vol. 2, p. 270.

The complaint of the selectmen of the towns of Enfield and Suffield which induced the preparation of the letter that constitutes this chapter has not been found in the archives.

By the following entry in the legislative journals of the Council the first action upon this complaint appears to have been taken by the House, but not being agreed to this letter was substituted by the Council:—

* Executive Records of the Council, vol. 4, p. 246.

† Mass. Archives, vol. 122, p. 249.

‡ History and Genealogy of the Conant Family, by Frederick O. Conant, p. 163.

§ The cause of this delay, in part, is shown in the note to private act, number nineteen.

|| Barbadoes, however, remained an exception until the spring of 1707.—Boston News-Letter, No. 101.

"Nov. 16, 1705. A Vote pass'd in the House of Representatives upon the Complaint of the Select Men of the Towns of Enfield & Sutfield of the Molestations continued to be given to them by the People of Windsor upon the Pretext of the Challenge of Jurisdiction of the Government of Connecticut, Was Read & Not Agreed to, And the Draught of a Letter from this Court to that Government, was Read & Voted, & Agreed to by the other House." — *Council Records, vol. VIII., p. 169.*

So far as this chapter affects the question of the contested boundary line between Massachusetts and Connecticut, it belongs to a class of legislative proceedings that are to form a separate group in a later volume, with the resolves, orders, etc., relating to the establishment, etc., of towns, etc.

See, further, resolves, 1693-4, chapter 21; 1695-6, chapter 56; 1696-7, chapters 13 and 22; and chapter 35, *ante*.

Chap. 79. This chapter is from council records, vol. VIII., p. 169. It has not been found in the archives.

In his speech at the beginning of the third session this year (October 21, 1705) the Governor addressed the Assembly as follows:—

"... I shall direct the Treasurer to Lay the accounts before you which to save time I have lately audited by a Committee of the Council & members of your house whereby you will see the Expence & what is wanting. . . ." — *Mass. Archives, vol. 108, p. 40.*

The first action upon this recommendation was taken in the House, after a week's delay, as follows:—

"Oct. 31, 1705. A Message by Major James Converse, Mr Knowles & Mr Little of the Representatives from that House, Desiring that the Committee might proceed to the Imprinting & Signing of the Five Thousand Pounds of Bills of Credit Ordered by this Court at their Session in May past." — *Council Records, vol. VIII., p. 161.*

The order * for printing the bills of credit which this chapter required to be forthwith completed provided that they should be received back into the treasury in all public payments at five per cent advance. The Council seem to have deemed it important that some other method of replenishing the treasury should be devised, or that the provision for receiving them back at more than their face value should be rescinded. Nearly a week having passed without action upon the above message of the House, the following correspondence between the two branches took place:—

"Nov. 6, 1705. A Message was sent to the Representatives by Elisha Hutchinson & John Foster Esqrs Mr Secretary & the Treasurer, to propose to the House If an Expedient may not be found out to supply the Treasury otherwise than by Making a further Impression of the Bills of Credit." — *Ibid., p. 164.*

"Nov. 8, 1705. A Message was sent to the Representatives by Elisha Hutchinson the Secretary & Penn Townsend Esqr to Confer with the House upon what was opened to that House in the Message sent the sixth Curr^t referring to the Treasury of the Loss & inconveniency by Allowing a like Advance on Debentures as on Bills of Credit." — *Ibid., p. 165.*

"Nov. 9, 1705. Ordered that the Treasurer forthwith write to the Constable or Collectors of the several Towns & Districts within this Province to return to him all Debentures now in their Hands with an Accompt thereof upon Oath if required, And to forbid them for the Future to receive any Debentures for more than the Sum therein express'd, And not to Issue out any Bills of Credit in their Hands but to pay them into the Treasury:

Web Order being sent down to the Representatives for Concurrence, stopt in that House." — *Ibid., p. 166.*

"Nov. 13, 1705. A Message was sent by Simeon Stoddard Esqr to the Representatives to enquire If the House had acted on the Order pass'd in Council upon Fryday last for Direction to the Treasurer, . . ." — *Ibid., p. 168.*

Nothing having been accomplished towards effecting the measure proposed by the Council, the proposition of the House conveyed in the message which constitutes this chapter was agreed to by the Council.

Chap. 81. This chapter is from council records, vol. VIII., p. 171, and archives, vol. 71, p. 163.

The petition referred to in the preamble to this chapter is as follows:—

"To His Excellency Joseph Dudley Esqr Capt General and Governor &c The Honourable the Council & Representatives of her majesties Province of the Massachusetts Bay In New England

The Petition of Thomas Cushing

Humbly sheweth

That your Petitioner had a servant, Named Samuel Kerby. Impressed into her majesties service at the Castle on Castle Island near Boston, some time in December last, from which time till the sixth of January following, I Rec^d his Wages ten shillings & 8^d and since his being at the Castle I have Expended on him for Cloaths and other necessities, nine pounds odd shillings w^{ch} is forty shillings more than his Wages Comes to, till the sixth of July Currant, till w^{ch} time (or within a day or two) he stayed at the Castle in s^d service, and then his Honour the Leint Governor sent me word my servant was Runn, and that Except I Could finde him again I must Loose his Wages, I have done my Endeavour but Can't finde him, I have supplied him Ever since he has been In her majesties service, I had two years & five months time in him by Indenture when he Runn; and he having Now deserted her majesties service (and mine too) he is under such ill Circumstances that I never Expect to see him againe: My Humble Request therefore is that your Excellency & y^r Council, will be pleased to Consider the circumstances of the matter, and be so favourable to me, as to order That my sd servants Wages may be paid to me, which I Humly

* Chapter 44, *ante*.

Hope (all things Considerd) will not Inter-fear wth Justice, And yo^r Petitioner shall as in Duty bound Ever Pray &c —

Boston: July 18th 1705

Tho^s CUSHING. — *Mass.*

Archives, vol. 71, p. 163.

This petition was read in Council on the seventeenth of November and sent to the House of Representatives where on the nineteenth it was read and the order which constitutes this chapter was passed and sent to the Council for concurrence. On the twentieth it was read and concurred in, and consented to by the Governor.

The payment does not appear specifically in the province treasurer's books.

About this time* desertions from the Castle garrison appear to have been frequent. Thus, "Bartholomew Carlile" of Marlborough, laborer, who appears to have enlisted May 29, 1704, to serve to the beginning of March, 1704-5, having obtained permission to go to Marlborough for his clothing, etc., never returned.† On his plea of guilty before the Superior Court of Judicature and Court of Assize‡ at Cambridge July 31, 1705, he was convicted and sentenced to sit upon "the Gallows in Charlstown on Fryday the Seventeenth of August next at four of the Clock in the afternoon of s^d day, for the Space of one full hour with a rope about his neck, the one End thrown over the Gallows: Sufferr Three months Imprisonement pay Costs," etc. He presented a petition for mercy to the justices of the Superior Court on the last Tuesday of July, in which he professed sorrow and shame for his conduct, adding that he knew he was "liable to be severely punished (if not by death;)."†

Another instance is shown in the following from the *News-Letter* of February 5, 1704-5: —

"Advertisement.

Lately deserted Her Majesties Service at the Castle on Castle-Island, *Jonathan Milburn* Souldier, a Middle siz'd man, thin Visage, dark brown short Hair; Aged about Thirty years: Whosoever shall apprehend and him Convey to the Honourable *Thomas Povey* Esq. Lieutenant Governour of the *Massachusetts-Bay*, shall have *Forty Shillings* Reward, besides his Charges. And if the said *Milburn* will Voluntarily come in and Surrender himself to the next Justice of the Peace, in order to return to his Obedience, he shall be pardoned his Crime." — *No. 42.*

At length these desertions were taken notice of by the Council, as shown in the following entry: —

"Nov. 9, 1705. Whereas the Souldiers Impress'd and sent down in the service of this Province at Her Maj^{ty}'s Castle William have several of them lately deserted the service there, contrary to Law.

Advised and Consented, That his Excellency do give publick significations, that whosoever, Officer or other Inhabitants within this Province or the Province of New Hampshire, that shall apprehend and returne such Deserters to Justice shall be at all times paid their just charges therein out of the Wages of such Souldiers, so restored to the service or Justice according to Law, to be assigned by the Govern^r out of the next Muster Roll, wherein such Deserters are named & payment accordingly." — *Executive Records of the Council*, vol. 4, p. 234.

Chap. 82. This chapter is from council records, vol. VIII., p. 171. It is preserved in archives, vol. 105, p. 48.

The petition and annexed account mentioned in the preamble to this chapter are as follows: —

"To his Excellency the Governour Council & Representatives in General Court Assembled May the 31st 1704. The humble petition of *Joseph Sheldon* & *Jonathan Remington* Constable of *Suffield* most humbly.

Sheweth

That Whereas your petitioners (in a province Cause and pursnant to a warrant Granted by the honoured Lieut Colonel Samuel Partridge Esq; by order from the supreme Authority of this province for the vindication of the rights and properties granted by our former honoured General Court unto the Town of *Suffield*;) some time the last Michaelmas seized a parcel of Turpentine Gotten by some of our Neighbours as Trespassers (within the settled bounds of this plantation: And were for our obedience to the authority of this province seized by the authority of Connecticut Colony Carried away to Hartford and their committed to the common Goal where we suffered imprisonment for the space of three weeks and odd dayes to our exceeding great Damage it being in the spring and in the very prime and aptest season for sowing & planting soe that thereby we are like to sustain the loss of this years Crop this together with some other Dammmages sustained in the time of our exilement from our families and imprisonment at Hartford Constrains us to address yo^r Excellency with the rest of the honourable assembly in the quality and Garb both of Complainers and petitioners our grievances we have already lay'd before your hon^{rs} which is our long and tedious imprisonment with its consequents and effects one of which we shall only mention which is this that hereby a barr is lay'd in our way that we cannot at no time (be our necessities never so great or our business never soe important) goe into that colony without exposing ourselves to a new and for ought we know to a longer imprisonment than already we have sustained: — Now may it please yo^r Excellency with the rest of the great and general assembly: of yo^r Clemency to hear us patiently whilst we upon our bended Knees present our supplications in humble wise before yo^r hon^{rs} — Our

* That is, during the time that Dudley was withholding his assent to the pay-rolls. See note to chapter 92, *post*.

† Suffolk Court Files.

‡ Records of the Superior Court of Judicature, 1700-1714, fol. 160, and Boston News-Letter, No. 68.

petition is onely this that yor Excellency with the rest of this honourable assembly would be pleas'd to take cognizance of our grievances and Grant us at the countreys cost our necessary charges which we have been at? and Damages which we have sustained in the time of our imprisonment and in the province cause: but modesty bids us forbear & not to Multiply words especially when treating our superiours & speaking to those whose wisdom is such that a word is sufficient — we shall therefore refrain ourselves and not fill the ears of this honourable assembly with empty airy words. But shall in Gratitude and as duty strongly obliges us for the prosperity of this Government ever pray &c.

This vnder written is an account of the charges and Damages which the persons above mentioned were necessarylie at; and sustained during the time of their imprisonment

Joseph Sheldin for going post to Boston with a letter from Liev^t

Colonel Partridge and Colonel Skyler of Albana 002 = 00 = 06 Cash

Their Charges Joynly together 3^d at least 003 = 00 = 00

Their Damages for loss of time and otherways as shall be made to appear amounts to seven pounds a piece 014 = 00 = 00

JOSEPH SHEDLIN." — *Mass.*

Archives, vol. 105, p. 47.

Although this petition was presented at the first session of 1704-5, no action appears to have been taken upon it until the third session of that year. On the fifteenth of November, in the House, it was "read and sent up." No further action upon it appears until June 26, 1705, when it was read. It was read again November ninth, and on the twentieth the resolve which constitutes this chapter was passed and sent to the Council for concurrence, where it was immediately read and concurred in, and consented to by the Governor.

The order in Council* for the payment of the allowance granted by this chapter was passed December 5, 1705, and the province treasurer's account† shows that it was paid.

Chap. 83. This chapter is from council records, vol. VIII., p. 173. It has not been found in the archives.

As has been previously stated, only eight days after the Governor's proposal‡ to send an Indian messenger to Canada had been agreed to, Borland's brigantine § returned,|| bringing Vetch and William Dudley and with them the draught of a treaty which Vaudreuil proposed for Dudley's acceptance. It ran as follows:—

[**PROPOSED TREATY BETWEEN CANADA AND NEW ENGLAND.**]

Draft of the Treaty to be concluded between the two Colonies of New France and New England, agreeable to the proposals Mr Veché submitted to M. de Vaudreuil, governor-general of New France on the part of Mr Dudley, governor-general of New England.**

The Marquis de Vaudreuil, Knight of the Military order of Saint Louis, and Governor-general of New France having appreciated the reasons submitted by Mr Joseph Dudley, Governor-general of New England, who [observes] in the preliminary of the Treaty he wishes to conclude with him, *states* that the War they are respectively waging, can never

redound contribute †† either to the glory of their Sovereigns' arms or to the aggrandizement of their

* Executive Records of the Council, vol. 4, p. 245.

† *Mass. Archives*, vol. 122, p. 257.

‡ See chapter 75, *ante*, and note.

§ See note to chapter 51, *ante*.

|| "Nov^r 21. [1705] Capt. Vech and Mr. W^m Dudley come to town from Canada; came from thence last Friday was five weeks. Gov^r [Vaudreuil] would not let them come till the Fleet sail'd for France." — *Seawall's Diary*, vol. II., p. 142

** *Boston*, On Wednesday the 21st Currant, Arrived at Cape Anne the Gentlemen that went from hence for Canada the 6th of July last, along with Capt. *Cortemanche* the Governour of *Cannada's* Commissioner, who came hither the last Spring. They left *Cannada* about 6 weeks ago, and with great difficulty, having spent their Mast, are now arrived here, and brought with them Letters for His Excellency, with the Governour of *Cannada's* Proposals for the Exchange of Prisoners. They brought also with them 11 of our Captives.

Our Gentlemen were very civilly Treated by the Governour of *Cannada*, and say, That the Seminary at *Quebeck* was burnt a second time, about a fortnight ere they came from thence, which was burnt about 4 years before." — *Boston News-Letter*, No. 84. November 19 to 26, 1705.

†† The translation here adopted is taken from the "Documents Relating to the Colonial History of the State of New York," and is more complete and apparently more accurate than the French version in the "*Collection de Manuscrits*," etc. Reference has been had to the latter, however, for comparison, and all important differences have been noted; thus, words, phrases, and sentences put in brackets and not italicized are such as were found only in the English version; of the words and letters not enclosed in brackets, those in Italics were found only in the French version, and of others, which are inserted in smaller type, the upper word is proposed as a substitute for the word beneath it, as the more accurate translation; and words in Italics enclosed in brackets were not found in either version, but are supplied by the editor to render the meaning more obvious.

It seems less probable that the differences between these versions are attributable to the translator than that there were two original copies, — or a completed copy and a rough draft, — not exactly agreeing. The latter conjecture receives some support from the circumstance that, wherever, in the two copies now in print, except in one instance, the French and English governors or territories are mentioned in juxtaposition, the French name has precedence in one, and the English name in the other; as if these copies were intended to be delivered to the contracting parties interchangeably.

** In the French version the heading is as follows: —

"PROJET DES ARTICLES DE TREVE A CONCLURE ENTRE LES GOUVERNEURS DE LA NOUVELLE-FRANCE ET DE LA NOUVELLE ANGLETERRE EN AMERIQUE

A Québec, le 6 octobre, 1705." — *P. 440.*

†† In the French, this word is "tourner."

states, but merely to the ruin and desolation of some poor families belonging to their governments, transmits to Mr Joseph Dudley governor-general of New England, the following ^{proposals} * some of which are extracted from the Treaty *which* he had presented to him, and others are added, to wit:—

The Marquis de Vaudreuil, [Knight of the Military order of St Louis], governor-general of New France, and Mr Joseph Dudley, governor-general of New England have contracted, [agreed] and firmly covenanted,† that [from and] after the date and signature of the present Treaty and following articles [concluded] by themselves or by others named and duly authorized by them, all acts of hostility whatsoever shall cease on both sides, as well on the part of the French as of the English, and [of] all Indians or Savages of what Tribe or Name soever they may be, and [of] all *the* other Europeans who are now, or will be hereafter in the service of the one and the other; and that on the following terms:—

1st.

The two governors abovenamed have covenanted and mutually promised, on the true public faith‡ and honor of their governments, as well for themselves as for their people of their said governments, to cause an exact truce, neutrality and cessation of arms to be kept and observed, *inviolably* and to prevent, on the one side and the other, between the two governments, all acts of hostility that might be committed either on land or water by the French, English, Indians or other Nation whatsoever, directly or indirectly dependent on them, encouraged or authorized by one of the said governors or those *who* are under them.

2nd.

The abovenamed governors have covenanted and mutually promised not to assist, either directly or indirectly, the nations with whom they might be at war, not to afford any transit across their territory § to the troops which would march to disturb them, and never to lend any vessels belonging to their governments nor allow the people of their governments to lend || any of their [ships] for the purpose of transporting any foreign troops to wage war within the governments of said governors under any pretext whatsoever.

3rd.

That in virtue of said Truce, Neutrality and cessation of arms, the two governors abovenamed will give passports as well to the vessels, the property of their own Colony, as to those belonging to the people of their governments, who shall want to pass on their business from one to the other of said governments.

4th.

The two aforesaid governors have covenanted together and mutually promised, that the said passports which shall be delivered to the inhabitants or residents within the said two Colonies, shall serve them for surety and protection against all soldiers and people of said two *governors* [governments]; provided that the inhabitants or residents of New England who will come into the territory of New France, shall not import thither any merchandise whatsoever, on any pretence whatsoever, for though furnished with passes the merchandise shall be confiscated.

5.

The two governors abovenamed have covenanted together and mutually promised, that the passports *which* they will give to the vessels of the two Colonies, or to those belonging to the people of the two Colonies aforesaid, or *that* will have touched at the territory of said two Colonies, shall serve them for surety and protection against all vessels of the two Colonies aforesaid, or to *it* [them] belonging or may be destined thither; it being well understood that ships from New England that will arrive [at] in the ports of New France, or [that] shall enter the River St Lawrence, shall not be freighted with any merchandise on any pretence whatsoever, and shall come [thither] with their *ballast* ¶ [cargoes] and provisions only, in default whereof said merchandise shall be confiscated without any regard had to the passports.

6th.

[The governors above named have covenanted among themselves, that said passports granted to ships shall be valid only during forty days, to reckon from the date of said passports, and shall include the limits hereinafter set forth.]

7th.

The two governors aforesaid have mutually covenanted that the ships, barks, *shallops* [sloops] and other vessels of what description soever, the property of said two Colonies, or of the people of said colonies, or destined for said Colonies, shall freely navigate, and not be incommoded nortaken *nor destroyed* ** nor carried away †† by any vessel of the two Colonies aforesaid, or belonging to their people, or that shall be destined for, or have touched at, said two Colonies, to wit: From the Grand Bank, at forty leagues' [distance from the shore of the Island of Newfoundland unto Cape Cod within forty leagues] outside the entire Coast including therein the Elizabeth islands, and from Belleisle, which is at the entrance of the Streight between *Labrador* [La Bras d'or] and the Island of Newfoundland, unto Cape Breton at forty leagues from the shore, and in the entire gulf and river of St Lawrence and the Islands therein contained.

8.

The *two* aforesaid governors have covenanted, to wit: The Marquis de Vaudreuil, [Knight of the Military Order of St Louis, and governor-general of New France,] That any

* In the French version this word is "propositions."

† "Convvenu," which is rendered "covenanted" wherever it occurs in the English version.

‡ "Sur la bonne foi publique."

§ "Sur leurs terres."

|| "Donnent."

¶ "Leste."

** "Ni renversés."

†† "Ni amenés," — probably an error for "emmenés."

vessels of his government, going to fish on the coasts of New England, [though furnished with his passports,] shall be *lawful* [good] prize; * in like manner Mr. Dudley, [governor-general of New England] hath covenanted that 'if he find any vessel of New England fishing, or loaded with fish that it will have fished, on the coasts of Acadia, or in the gulf, or river of St Lawrence, or even that shall be found freighted with oil manufactured from fish killed there; The said vessel shall, without any manner of regard being paid to its passport, be *lawful* [good] prize; † [the two governors aforesaid mutually promising, the one the other, that vessels belonging to the people of their governments, or to the Colony, shall not fish within the territory the one of the other.]

^{9th, †}
The two Governors named have covenanted that they shall prevent, in as much as in them lies, any Indian or Savage of their dependencies or allies, going in a body or in numbers to trade or hunt on the territory of either of the two governments, without being provided with a passport from their governments.

^{10th}
And [finally,] in order that the said Truce, Neutrality and [or] suspension of hostilities be not subject to be violated or invalidated by the caprices of any *dissatisfied or ill disposed person* [dissatisfaction] on the one side or the other, or by the inconsiderate incursions of any Indians, the said two governors above mentioned disavow, from this moment, all those who shall contravene this present Treaty, and agree between themselves that no private quarrel or incursion of any unauthorized persons shall prejudice in any manner the present Treaty. Both of the said governors have agreed and mutually promise, that if any persons, either soldiers or settlers belonging to their [said] governments, make incursions into the countries the one of the other, they shall cause exemplary punishment to be inflicted therefor at the first requisition of him who shall have been attacked; but should the infraction of the present Treaty proceed from the Indians, the governor on whom they ^{shall} ~~will~~ depend, pledges himself to do his best to cause the satisfaction due in such cases to be given by them.

^{11th}
The two above named governors have covenanted and mutually promise, in support of the present Treaty, to surrender [all] the prisoners they have made, on the one side and the other, as well by sea as by land, of what quality and condition they may be, without regard to number, pledging themselves besides, the one and the other, to surrender them without distinction, and even though they should not have been taken by the people of the said two *governors* [governments.]

And in regard to the French or English prisoners who are in the hands of the Indians, the two aforesaid governors oblige themselves to do all in their power to withdraw them from the hands of the Indians, and to send them afterwards back to their countries.

And in regard to the Indians who are in the hands of the English, Mr Dudley obliges himself to send them back to the Marq de Vandreuil as soon as possible after the signature of the present [said] Treaty.

The Marquis de Vandreuil declares that he includes within the present Treaty all the country called New France, the Province of Acadia, the Islands of St Peter, the Island of Cape Breton, the whole of the Gulf of the river St Lawrence the Islands therein inclusive, the entire coast of La Bras d'or called the Territory of the *Esquimaux* [Ischimaux], and Bellisle Island.

The Marquis de Vandreuil submits this Treaty to Mr Dudley in answer to his; on condition that he shall oblige the Governor of York, and all deputy governors to enter into the same Treaty, who shall be obliged to assent to, and sign the present Treaty before the end of February; || in default whereof the Marquis de Vandreuil declares that all these present propositions shall be null.

Done at Quebec the October 1705." — *Vol. IX., pp. 770-772.*

On the twenty-third of November the above proposals and the letters accompanying them were communicated to the Council, read and sent to the representatives for their perusal.

The last clause of the eleventh and final article, being a stipulation that the treaty should not take effect unless the Governor of New York and others therein named should assent to and sign it before the end of February, Dudley prepared a letter to Cornbury on the subject of ratifying the treaty proposed by Vandreuil. It was the draught of this letter, no trace of the existence of which has been discovered, that was approved in the vote which constitutes this chapter.

Cornbury's assent was never given, and indeed only four days after the date of this chapter the House advised Dudley against agreeing to the proposed treaty.¶ At the expiration of the period limited in Vandreuil's proposals, hostilities were renewed by the Indian enemy, by permission of Vandreuil.**

* "Bonne prise."

† The final sentence fails to give the evident meaning of the passage as it stands in the French version, which, by a single transposition, may be better rendered "any vessel of New England found fishing, or laden with fish caught, or with oil extracted from fish killed, on the coast," etc., "shall be lawful prize."

‡ The editor of the Documents Relating to the Colonial History of the State of New York has appended to this article the following note:—

"This article ought, it is supposed, be numbered 9th. But it is without any number in the Text.—Ed." It is written out "neuvième," in the French version.

§ "Dépendront."

|| "A condition qu'il obligera le Gouverneur d'York d'entrer dans le même traité et tous les gouverneurs particuliers auxquels il sera obligé de le faire agréer, et que le présent traité sera signé avant la fin de février."

¶ See chapter 85, *post*, and note.

** See Vandreuil's letters to Pontchartrain in notes to resolves, 1706-7, chapters 6 and 51.

Meanwhile, however, Dudley proposed that the release of French prisoners of war* be continued as an exemplary act of generosity that might appeal to the sensibilities of the Governor-General at Quebec. Possibly, also, he might have thought it would afford opportunity for trade.

Dudley immediately communicated the news of the return of the messengers, as follows, to Governor Winthrop, with the request that he express it to Major Pynchon at Springfield on its way to Vetch's wife, in care of her uncle, Peter Schuyler, at Albany:—

“ROXBURY, 21 Nov^r 1705.

SR,—Williams the bearer brings M^{rs} Veach the good news of his arrival this morning from Quebec, and has occasioned an express of mine to Col. Skyler, which I have covered to Major Pinchon. It is of great concern & hast, & the messenger doubts of finding the way to Springfeild. If you please to do mee the favour to express it, your messenger upon your note shall be paid by

Sr, your very humble servant,

J. DUDLEY.”—*Win-*

throp Papers, part V., p. 317.

And, accordingly, on the twenty-fifth, Winthrop requested the council of Connecticut to cause it to be sent forward without delay, as follows:—

“... I desire therefore that it may be sent forwards without delay, and let the bearer of it take a receipt for it. The vessell has been six weekes from Quebec. Mr Williams was then in health, his son is returned and fine or six of those taken at the eastward, but I heare of noe more. . . .”—*Ibid.*, p. 318.

In the note to chapter 51, *ante*, is given an expression of opinion by Pontchartrain that the illness of Courtemanche, which was his ostensible reason for returning to Quebec by sea, was assumed as a cover for illicit trade. In private act, number nineteen, mention is also made of the suspicions entertained in Canada that Vetch and William Dudley were abusing the privileges accorded them by Vaudreuil to acquire information that would be of advantage to the English in case of future hostilities. As if to avert some anticipated rebuke for his hospitality shown to Dudley's representative, Vaudreuil, in the same letter to Pontchartrain (October 19, 1705, mentioned in the note to chapter 51, *ante*), gave an account of the precautions he took to prevent the messengers from doing or contriving any immediate injury to the French in Canada or to their ships at sea, of which the following is an abstract prepared for, or by, the minister:—

“The King's orders having forbidden all trade with the English, he would have seized this vessel as a lawful prize had it not been for the conferences that he had with Mr. Dudley. He sent an officer to detain it within fifteen leagues of Quebec, where it would have remained until its departure, had he not feared that this vessel, having seen our fleet depart, might sail without orders, to give information at Boston about the state of our forces and the time of the return of our ships. That constrained him, at the request even of the Sieur Count of Arquiand, to have it come to Quebec and to hold it there up to the present time. He took the precaution to have its sails removed and to put a guard on board to prevent all trading.”—“*Collection de Manuserits,*” *etc.*, vol. II, p. 450.

Upon this statement by Vaudreuil the following comment was made by the minister or by his order:—

“*The precautions that he takes indicate that the Sieur de Courtemanche ought not to have returned by sea, but to have waited for his recovery, in order to come by land as he was ordered.*”—*Ibid.*

Vaudreuil next approaches the subject of the proposed treaty in a passage which is thus summarized:—

“Mr. Dudley the son, and Mr. Vetch, who commands the English vessel, have caused several requests to be made to him to know if he [Vaudreuil] had authority to conclude a truce. He had them informed after the receipt of the letter of June twenty-fourth, that they might make proposals. They are herunto annexed.”—*Ibid.*

Upon this the minister briefly commented, as follows:—

“*I think as I told him that could not fail to be advantageous to both colonies.*”—*Ibid.*

Vaudreuil proceeds to recommend the treaty as worthy of the king's approval, at the same time explaining how it happened that Vetch had been permitted to land merchandise at Quebec to the value of a thousand crowns. The substance of this part of his letter is thus given:—

“He flatters himself that His Majesty will sanction this treaty in which the interests of the colony are preserved. He is persuaded, if they accept it, that it will be more advantageous to us than to them, if we consider only the coasts of Acadia which are protected thereby.

Mr. Vetch, having been detained two months and a half at Quebec, has contracted debts there, and in order to pay them he has been obliged to present a petition to the Sieur Raudot who permitted him to take out of his bark one thousand crown's worth of merchandise that he destined for St. John in the island of Newfoundland.”—*Ibid.*

The comments of the minister on this portion of Vaudreuil's letter show that he penetrated the thin pretext under which the Governor-General sought to disguise the proceed-

* “Nov. 27, 1705. His Excellency having open'd the Matter of the Proposition made by Mons^r Vaudreuil Govern^r of Canada, relating to a Truce & the Exchange of Prisoners, & The being allow'd to the first [last] of February next for his Consideration so that no Exchange is like to be brought forward this Winter, I propos'd to have the Advice of the Council, Whether upon Consideration of the Charge occasion'd for the Support of the Prisoners here, & the Generosity that would be express'd in Sending some of the Port Royal Prisoners Home, The Council advis'd thereto, And M^r Commissary Genl was thereupon directed to present a List of the said French in Order to their Consideration who of them, & in what Manner they should be return'd: And the Advise^{ment} was communicated to y^e Repres^{ents}.”—*Council Records, vol. VIII., p. 173.*

ings between himself and Vetch. He passes over Vandreuil's remarks regarding the treaty, but approaches the subject of the commercial transaction thus:—

"The letter that Mr. Vetch writes to Monseigneur does not say that he was carrying his goods to St. John, but to Quebec, to indemnify himself by their sale for the expenses of the voyage which he undertook gratis to bring back the Sieur de Courtemanche who had encouraged him in the hope of being able to dispose of them there. Moreover, it appeared by the seizure that was made of ten casks which this Englishman wished to take out in his vessel (in which were found remains of beaver and seal,* the rest having been, apparently, abstracted), that he had not confined himself to the landing of goods for paying his debts, since he intended also to take back returns in beaver." — *Ibid.*, p. 451.

As an illustration of the system of secret espionage by which the ministers of Louis XIV. kept watch over their agents in governing the distant colonies of the kingdom, the following abstracts are here inserted from a letter to Pontchartrain dated just one week before the letter of Vandreuil written by M. Claude de Ramezay, or Ramsay, whom Rev. John Williams describes † as "Governor of Montreal, and the Superior of the Jesuits:"—

"An officer of Boston having come to Canada with a passport (for a negotiation about the exchange of prisoners, which did not succeed) M. de Vandreuil gave him entire liberty to learn everything that he wished to know, so that he told the Sieur de Courtemanche and those who accompanied him, that he had a perfect knowledge of Canada, and that it would be easy for the English to become masters of it.

When this same officer was at Montreal, M. de Ramsay took the precaution to have him accompanied by an officer and an interpreter with orders not to allow him to enter into private conversation.

The Frenchmen, who accompanied M. de Courtemanche to Boston, recognized there a French family which an Englishman named Vetch had brought there furtively four years ago on a voyage that he made to Canada. M. de Vandreuil, who was informed of this, had made no mention of it. . . .

M. de Vandreuil would propose a neutrality with New England and M. de Ramsay explains to Monseigneur the conditions which might render that neutrality advantageous." — *Ibid.*, p. 448.

Chap. 84. This chapter is from council records, vol. VIII., p. 174. It is preserved in archives, vol. II., p. 197.

The story of the attack on Deerfield, in which the Rev. John Williams was taken captive by the French and Indian enemy, is given in the note to resolve, 1704-5, chapter 6, and the particulars of the voyage undertaken by Vetch and William Dudley under a flag of truce for the recovery of the English in captivity at Canada are narrated in the note to private act, number nineteen. See, also, notes to chapters 51 and 83, *ante*.

Among the papers brought by the returned messengers was the following petition addressed by Mr. Williams to the General Court:—

"To the Honor^d Generall Court of the province of the massachusetts Bay in New England—

I have for a long time (well known to your selves) been in a sorrowful state of Captivity under many exercising trials having so many Children Captivated with my self among the enemies & some of them among the heathen where they were reduced to many straits, so that i have been necessitated to be at considerable expences for their & my own Comfort, one of my Children came to me from the indians the 1st of may past without so much as a shirt upon him & unless i would be unmercifully cruel & have hardned my heart to all unnaturallness i could not avoid charges, i have for the honour of my Country & the comfort of my children expended 18^l 6^s 9^d.

These are humbly to request you to make payment of the same to Capt. Samuel Vetch who has been so charitable as to give me several things that he saw i had a need of, thō he had never seen me before. who has also put me into a Capacity to make payment of what i owed for my sons Clothing &c (i hope you will be so Generous as to reward the service that he has performed with such prudence & unfainting industry) & so charitable to me as to make him full payment of the abovesaid sum our adversaries upbraid our religion that it falls so short of theirs in charity & good works, whom i have put to silence in assuring them our Charity to all in affliction, & good works of every nature far exceeding theirs i promise my self your charity to me in my affliction & want (having lost what i had at Deerfield) without any repining will yet give me an occasion from my own experiences to refute their calumnies. your Charity herein will also be encouraging me still to keep my post (if God graciously return me) a post lost without any default of mine. wishing you the Guidance of God in all your publick affairs, & concerns i am." — *Mass. Archives*, vol. 11, p. 197.

This petition was sent under cover to Paul Dudley, evidently to be used by him as the basis of a more formal draught; but Dudley sent it in with no other change than prefixing the address, as shown in the first two lines. It was accompanied by the following letter:—

"Worthy Sir

i hope at the receipt of this you will be made right glad at the return of Mr Dudley who has merited the thanks & a great reward of his Country for the great service he has done them here. These are humbly to request that favour of you as to draw up a petition to the General Assembly on my behalf for the reimbursing Capt: Vetch mōny he has lent me for paying what i have been forced to expend for my comfort & the necessary relief of my Children i have on the other side drawn up some minutes for to lay before the

* "Loups-marins;" that is, sea-wolves, — apparently either *anarrhicas lupus*, or the *macro-rhinus proboscideus*, or sea-elephant.

† The Redeemed Captive Returning to Zion, p. 41.

Honoured Court that i desire you would better form & then gine it to my son Samuel to present in so doing you will abundantly oblige your afflicted freind, i know i need not use arguments to stir up your generous mind to plead the cause of such as are in distress & therefore forbear them, & do humbly offer my best respects to your self & good Lady wishing you all happiness & am Sr

your humble servant

Quebeck octob. 10. 1705.

JOHN WILLIAMS." — *Ibid.*

The petition appears to have been read, first, in the House November 22, 1705. On the twenty-seventh it was read again and a resolve substantially the same as the printed chapter was passed and sent to the Council, for concurrence. On the next day it was concurred in, and consented to by the Governor.

The order in Council* for the payment of this allowance was passed December 5, 1705, and the province treasurer's account† shows that it was paid.

Chap. 85. This chapter is from archives, vol. 71, p. 192. It is recorded in council records, vol. VIII., p. 175.

The articles for a truce mentioned in the preamble to this chapter are given in full in the note to chapter 83, *ante*.

In the present chapter the representatives advised the Governor against complying with Vandrenil's proposals, but left the manner of communicating their declination to the discretion of the Governor and Council after advice from Cornbury. At the same time they expressed their satisfaction with the articles which Dudley had sent to Vandrenil and with his letter to Cornbury.

The most objectionable feature in Vandrenil's draught of a treaty was its requiring Dudley to assent to the claim of the French to territory which England also claimed, and which, by the province charter, was expressly included within the territory of Massachusetts.

Chap. 87. This chapter is from council records, vol. VIII., p. 176. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed December 5, 1705, and the province treasurer's account‡ shows that it was paid.

Chap. 88. This chapter is from council records, vol. VIII., p. 176. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed December 5, 1705, and the province treasurer's account‡ shows that it was paid.

Chap. 89. This chapter is from archives, vol. 58, p. 243. It is recorded in council records, vol. VIII., p. 176.

The order in Council* for the payment of the allowance granted by this chapter was passed December 5, 1705, and the province treasurer's account‡ shows that it was paid.

Chap. 90. This chapter is from council records, vol. VIII., p. 176. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed December 5, 1705.

By the account‡ of the province treasurer it appears that White was paid thirty pounds for his services this year. The fourteen pounds allowed by chapter 47, *ante*, and the present allowance together make just that amount.

Chap. 91. This chapter is from archives, vol. 71, p. 189. It is recorded in council records, vol. VIII., p. 176.

For particulars concerning the service rendered by Borland see the notes to chapters 51 and 83, *ante*, and the note to private act, number nineteen. The brigantine, as will be remembered, was procured for the voyage by Samuel Vetch, without expense to the province. The charge for which the owner was allowed the amount granted by this chapter evidently was for transportation and subsistence not included in the mere hire of the vessel.

The order in Council* for the payment of this allowance was passed December 5, 1705, and the province treasurer's account§ shows that it was paid.

Chap. 92. This chapter is from archives, vol. 71, p. 191. It is recorded in council records, vol. VIII., p. 176.

A like difference arose between the Governor and the members of the Council in respect to the compensation to be allowed to Captain Tuthill, the lieutenant of the Castle, as had been so long and zealously maintained by the two branches in regard to Povey's pay as captain, as shown in the note to chapter 32 of the resolves of 1701-5. By resolves, 1700-1, chapter 62, the lieutenant when performing the duties of lieutenant and gunner was to receive eighty pounds per annum. By resolves, 1702, chapter 59, the new lieutenant was granted fifty pounds for the current year, and Nathaniel Holmes, the former lieutenant, was retained as instructor in the art of gunnery, at thirty pounds — a regular gunner being also appointed at forty pounds per annum. It was claimed by the Council that these later resolves were not intended to affect the regular establishment made by the resolve of the year 1700-1, chapter 62, which they understood to be a permanent provision, — the later resolves being but temporary measures to meet new and peculiar exigencies. Eventually,

* Executive Records of the Council, vol. 4, p. 245.

† Mass. Archives, vol. 122, p. 238.

‡ *Ibid.*, p. 252.

§ *Ibid.*, p. 257.

however, they seem to have coincided with the House in their interpretation of the resolve of 1703-4, chapter 14; that is, that it was intended to effect a permanent reduction in the wages of officers as well as privates, and they therefore concurred in reducing the annual pay of the lieutenant from eighty pounds to sixty pounds. The Governor persisted in dissenting from this view, and from the time the first regular account, after January, 1704-5, was offered, with the pay of Lieutenant Tutbill stated at the rate of sixty pounds per annum, until he signed a warrant, in January, 1705-6, for the payment of the wages of the garrison due October, 1705, he continued to withhold his signature, and stubbornly refused to sign the accounts of wages which the law * required to be certified to the province treasurer every three months.†

It was during this unhappy dispute that the garrison began to show signs of discontent. The House seems to have been alive to their distress and to have made some attempts to relieve them. The following order in Council is the only practical instance of relief that has been found:—

"Ang. 17, 1705. There being seven Months pay and upwards due to the Garrison at the Castle, and the Muster Rolls thereof not being perfected; and the Souldiers complaining for want of their pay.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the sum of Five hundred pounds into the hands of Andrew Belcher Esq^r Commissary General, he to advance thirty pounds thereof to Lieut^{nt} Tutbill, ten pounds to the Gunner, and that he pay to the other Officers and Souldiers of the Garrison at Her Maj^{ty}'s Castle their first three months wages, since the passing of the last Muster Roll. An Account thereof to be laid before the Board and drawn into the Muster Roll of that time. The Commissary General to be accountable for the overplus of the sd money, if any be."—*Executive Records of the Council*, vol. 4, p. 212.

From the loss of the House Journals, however, it has not been found practicable to learn the precise nature of other remedies proposed, but that such attempts were made appears by the following entries in the legislative journals of the Council:—

"Sept. 15, 1705. A Resolve pass'd in the House of Representatives referring to the Pay of the Officers & Soldiers of the Garrison at the Castle, was Read & Sent back for Amendment."—*Council Records*, vol. VIII., p. 155.

"Nov. 15, 1705. A Resolve pass'd in the House of Representatives respecting the Subsisting of Soldiers, the Method of Passing Debentures and the Advance of Five Pounds per Cent. on Debentures coming into the Treasury, was Read, Debated & Voted a Non-Concurrence."—*Ibid.*, p. 169.

"Nov. 15, 1705. A Resolve pass'd in the House of Representatives respecting Rules to be observed in Paying off the Officers & Soldiers posted & to be posted at her Majesties Castle on Castle Island, during the present War with France & Spain was Read."—*Ibid.*

These attempts evidently resulted in the passage of chapter 4 of the acts of the year 1705-6.

When, at length, the rolls were signed by the Governor it was done under a protest which he had entered upon the executive records of the council thus:—

"Jan. 12, 1705-6. His Excellency gave in the following Declaration in writing under his hand. viz:—

That the Muster Rolls of the Castle haveing been duely Offered for nine months past, according to the Establishment made by the Governour, Council and Assembly in the year 1700, but alway's refused to be agreed to by the Council, on account of the Article for the Lieutenant, to whom by that Establishment Eighty pounds p^y Annum is assigned.

I haveing no other method to save the Garrison from starving for want of their pay, have this day signed the Muster Roll, wherein the Lieutenant is no more than sixty pounds p^y Annum, saveing to Her Maj^{ty} the Right of that Establishment, and to the Officer his challenge thereupon.

Which was read and his Excellency ordered it to be entred."—*Vol. 4*, p. 253.

On the thirteenth of November the following complaint was read a first time in the House:—

"To His Excellency Joseph Dudley Esq^r Cap^t Gen^l And Governour in Chief in And Over Her Majesties Province of the Massachusetts Bay in New England &c; And the Hon^{ble} Gentlemen Of the Generall Court Now Sitting in Boston this twelfth of Novemb^r 1705—

We your Petitioners

Humbly shew.

That Whereas your Petitioners In Her Majesties Immediate service, under the Command Of the Hon^{ble} Thomas Povey Esq^r Lieut^{nt} Govern^r &c; att Castle William Having for the space Of near Eleven Moneths Received from the Province, for the Reliefe And Support Of Our selves. (And such Of us As Have families for them) but one quarter Pay And that Long since, Which has Occasioned your Petition^{rs} to be under Poor And Low Circumstances, & brought to great streights, difficulties, & Inconveniencies; Our Necessities still Growing, And Increasing, Our families Indigencies, As Yet Not supplied; A Cold Winter season approaching and near att Hand, Your Petition^{rs} still Kept out of their Just due, from the Province; (Which formerly was Otherwise during the time We Received Our Pay from our Hon^{ble} Commanders) since Which time we have been Kept out, as att this Present, for seaven Near Eight Moneths, Of Our Just due, (Which is Contrary to an Act Relating to the forces that Are Or shall be Employed on Her Majesties service Within this Province; that All Acco^{pts} Of Wages shall be made up, And stated, And

* Province Laws, 1703-4, chapter 7, § 4. The accounts of wages due November 30, 1705, were ordered to be made up to the last day of October previous, by the act of 1705-6, chapter 4, § 4.

† See note to chapter 40, ante.

Laid Before the Governour And Councill. Att the End Of Every three, Or four Moneths to be past to the Treasur for Paym^t =:) Hereby y^r Petition^s are made unable, & uncapable, Of supporting, our selves and supplying the Necessities Of Our families: No supply or Releif to be had but from the Commissary Gen^l Whose Commodities Are some Of y^r Meaneest, And Not fitt, Or Convenient, for the Comfort, Or service Of souldiers: Yet through Necessity some Of Your Petition^s have been forced to take up a small supply; their Just due being detain^d As Afores^d Which had they Received, Could have supplied themselves to farr better profit and advantage; Our present Necessities Att this Juncture, With the Other Circumstances, Enforces us With submission to Pray Your Hon^{rs} Pity, A speedy Releif, And supply; And that due Care may be taken ffor Our Encouragement in the service, as formerly, otherwise We Cannot subsist—If Y^r Hon^{rs} Will Condescend to take Cognizance of our Present Circumstances, And Grant Our Request! We shall take itt as a singular, And, an Oblidging favour, And Thankfully acknowledge Your Kindness,— And As in duty bound shall Ever Pray—

JOSEPH POOLL	JOHN: + SHIRNE mark.	JOHN + BROWN. mark
WILLIAM ADAMS	JAMES. o PARKERS. mark	JOHN WITON
JOHN PEIRCE	ROBART = PERRIGOE mark	WILLIAM R ROSS. marke
JOSEPH BULLOCK	DANIELL EMERSON	RICHARD. SPRAGUE
JOSEPH BIRCH	JOHN. + HAYNES mark	ISAAC Z HALAMS: mark
HENRY WILLSON	SAMUILL s. PHILLIPS mark	BENJAMIN HAYWARD
JOHN BURNIT	DAVID SMITH	BEN (?) WILLIAM PITTEE
JAMES. DAY	RICHARD FAXSON	SAMUEL TUKER
WILLIAM SPOWELL	JOSEPH CHAPIN	ABARM + CLARKS — mark
BENJAMIN TUELLS (?)	THOMAS STEUENS Sen ^r	WILLIAM PORTER
WILLIAM X PATTINS mark	MILLER FROST	JEREMIAH F FENNWEK
DANIELL + ROSS ^s mark	THOMAS STEPHENS Jun ^r	THOMAS LAKE
HENRY WRIGHT	ROBERT WARREN	THOMAS APPLIN
WM — WHITTE		WILLIAM MALLARD." — <i>Mass.</i>

Archives, vol. 71, p. 182.

On the fourteenth this complaint was read a second time and, as the memorandum shows, was ordered to be sent to the Council. How it got back to the House does not appear, but on the twenty-seventh it was again sent to the Council with the following order annexed thereto:—

"Ordered That His Excellency, be Desired to Order the Complainants, to appear before this Court, to Hear s^d Complaint & Remedy the same, if they have been kept out of their just Dues that they are Allowed by this Province, and also Examine the Complaint made against the Commissary Generall, giving him Opportunity, to say (if so it have been) why he hath supplied them, with such mean Commodities, not fit or convenient for their Comfort, or service, that they say hath been such Discouragem^t to them in their service.

Sent up for Concurrence.

THOMAS OAKES Speaker." — *Ibid.*, p. 183.

On the same day the following vote was appended to the foregoing order of the House:—

"Upon Reading of the above Vote His Excellency ordered That mr Barnsdale & three others, two of them of the principal Complainers, be directed to attend to-morrow and that m^r Commissary General order a Specimen of the clothing before the Court." — *Ibid.*

The following is the record of the hearing had in accordance with the order:—

"Nov. 28, 1705. A Petition & Complaint of several of the Garrison Soldiers at her Majesties Castle William of the Meanness of the Cloathing supplied them, & the Want of their Pay having been Read yesterday, And some of the Principal of the Complainers being Ordered by his Excellency to attend this Day, & bring some of the Cloathing with them accordingly appeared, & were heard before the whole Court." — *Council Records, vol. VIII., p. 174.*

The subsequent proceedings appear upon the face of the chapter, as printed. See, also, chapter 94, *post*.

Chap. 93. This chapter is from council records, vol. VIII., p. 177. It is preserved in archives, vol. 101, p. 306.

The circumstances which led to Cary's undertaking the voyage mentioned in the preamble to this chapter have been narrated in the notes to resolves, 1704–5, chapters 42 and 113, wherein also the unfortunate ending of that voyage has been described.* From the items which in his account hereinafter printed Cary gave of the expenses he incurred in his mission it appears, incidentally, that after his capture he was imprisoned first at Brest and subsequently at Dinan and St. Malo. The period of his captivity seems to have been between August 21 and September 14, 1704, when he purchased the release of himself and his companion and proceeded to London. He reached Dartmouth by the eighteenth, and seems to have begun his negotiations in behalf of the province on the twenty-sixth, on which day he charged the expense he incurred at Whitehall in presenting the memorial of the General Court, which, in some way not explained, seems to have escaped the vigilance of his captors.†

From this time forth his movements between Whitehall, the Tower, Westminster, St. James, and Woolwich are largely recorded down to April 21, 1705, when he paid thirteen shillings for lighterage of the stores aboard ship for transportation. The account continues thus with equal minuteness to the eighteenth of May, when he paid for lighterage of the guns aboard and for marking them with the province mark. After this he seems

* For some idea of the condition of the province, with reference to supplies of ordnance and munitions of war, on account of hostilities then existing between England and France, see note to chapter 100, *post*.

† By the charge he makes under date of the twelfth of December it would seem that a copy of the address had also reached him at that time by the Gosport, man-of-war.

to have spent above five weeks at Portsmouth previous to embarking for home, which, apparently, he did on the eighth of September* in the ship *Reward*, Captain Benjamin Gillam, commander.

Gillam's arrival, bringing with him Cary and the ordnance and stores, is thus recorded by Sewall and the News-Letter:—

"Novr 10. [1705]. . . Gillam and Mason arrive at Cape-Anne."—*Diary, vol. II., p. 142.*

"Captains, *Gillam* and *Mason* are arrived from *England* at *Cape Anne*, and said to have seven Weeks passage from *Plimouth*."—*No. 82. November 5 to 12, 1705.* See, also, *No. 83.*

A later issue of the News-Letter contained the following account of the landing of the ordnance and stores at the Castle:—

"By Capt. *Gillam*, The Governour received Her Majesty's Bounty to this Province, Consisting of Twenty Piece of Cannon, with all necessary Stores and Provision for their Mounting, (which was Landed on *Castle-Island*† the 30th Instant) as a particular mark of Her Majesties Favour for the Defence of this Province."—*No. 85. November 26 to December 3, 1705.*

The account mentioned in this chapter is as follows:—

		The Province of the Massachs ^{ts} Bay N E.		Dr	
				ll	s d
In France					
	Aug st 24	To expence in Brest Prison 7 dayes		1 "	— "
	Sept ^r 1	To Expence & Horsehire From Brest to Denan		1 "	10 "
	Do 6	To Expence in Denan Prison about 8 Times		1 "	10 "
	Do 14	To Charge & expence going from Denan to St Mallo & horsehire		1 "	— "
		To Cash pd for Mr Welch & Self for release out of Prison to Returne for England		5 "	18 "
	Do 18	To expence att Dartm th Horsehire & thence to Exeter.		2 "	— "
		To Coachhire from Exeter to London		2 "	— "
From Sept ^r 26 to 8 th Sep ^r		To expence on Ditto road		1 "	— "
		To Coachhire to White Hall. Expence presenting the Memorial and Attending on it		2 "	— "
frö	8 to 15	To Coachhire & fees att White Hall		1 "	10 "
	15: to 22	To Diet & Lodging		1 "	— "
	22 to 29	To Diet & Lodging		1 "	2 "
	30. 31	To Expence 6/ Coachhire 3/		— "	9 "
Nov ^r	1	To Expence on the Officer att White Hall & Coachhire		— "	10 "
	2	To Expence att W Hall & Coachhire		— "	15 "
	3: 4	To Charge, Provision,		— "	8 "
	5: 6: 7	To Ditto		— "	7 "
	8	To Expence going to ye Tow ^r to Enq ^y of the W ^t of Cannon		6 "	— "
	9	To Coachhire & Expence to W Hall		— "	9 "
	10	To Do		— "	— "
	Do 2	To Cash paid the Secretary of the Q Counsell Obtaining an Order to the Board of Ordinance & Other charge there		4 "	14 "
		Other necessary expences on it & diet		— "	6 "
	11	To Expence going to the Temple		— "	3 "
	12: 13.	To Ditto to Speak with the Province Agent		— "	5 "
	14	To Coachhire to Westmister & expence		— "	6 "
	15	To Coachhire 3/ 6 ^d Other Expences 2/ 6 ^d		— "	6 "
	16	To Coachhire to Westminster 3/ 6 Other Expence 2: 3		— "	9 "
	17	To Water 1/ Other expence. 2/ 6		— "	3 "
	18	To Coach 3/ Expence in Provision 2 ^d 6 ^d		— "	6 "
	19	To Expence in Ditto		— "	2 "
London					
	20	To expence on the Officer of the Tow ^r 5/ Other Expences 2/		— "	7 "
Do	21	Coachhire to St James. 3/ Other expence 2/		— "	5 "
	22	Expence in Provision		— "	2 "
	23	Coachhire 2. 6. Expence 1/ 6		— "	4 "
	24	Expence 2/ 6		— "	2 "
	25	Coachhire 2/ 6 Expence 1/ 6		— "	4 "
	26: 27	Expence		— "	4 "
	28	Treating the Officers of The Tow ^r		— "	18 "
	29	Coachhire & Treating Attendants		— "	10 "
	30	Coach 4/ Provision 1/ 6 ^d		— "	5 "

* But it would appear from the item quoted from the News-Letter in the text that the *Reward* began her homeward voyage from Plymouth two weeks later.

† "Jan. 17, 1705-6. A Bill of Lading was presented, signed by Capt^l Benjamin Gillam Commander of the Ship *Reward*, for the Ordnance and appurtenances Ordered by Her Maj^{ty} for her service within this Province, and a Receipt endorsed thereon for the delivery of them at Her Maj^{ty}'s Castle William, the freight to be paid for the same being sixty one pounds, fifteen shillings and nine pence—And.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of sixty one pounds, fifteen shillings and nine pence to the s^d Capt^l Benjamin Gillam accordingly."

— *Executive Records of the Council, vol. 4, p. 258.*
By the province treasurer's account (Mass. Archives, vol. 122, p. 258) it appears that payment was duly made on the above warrant.

Decr	1	Expence 2/6 ^d Coachhire 5/	7	6
	2	Coach 6/ expence 3/	9	-
	3	Provision	2	-
	4	To the Clerk of the Q. Counsell: Treating him & Coach	6	-
	5	To Cash given the Officer of The Tower	2	3
		To Clerk of Q: Counsell for Ordn ^o to L Treas ^r abot y ^e Guns	1	1 6
		Other expence, & Coachhire	-	10 -
		To Cash pd Mr Belchar expended	-	6 -
	6	To Coach 3/ 6 ^d Expence 1 ^l 6 ^d	-	5 -
	7. 8	To Expence & Provision	-	4 6
frô	8 to 15	Provision and expence 7 days	-	14 -
frô	15 to 22	Ditto	-	14 -
frô	22: Jan ^r 1	Ditto	-	18 6
	1 to 8 th	Ditto	-	16 -
	9. 10: 11.	Ditto	-	8 -
	12: 13	To Coach Hire 6/ Expence 6/ Delivery of Address P Gos-	-	12 -
		port	-	4 -
	14: 15	To Expence 2 days	-	15 -
	15 to 22	To Expence and Provision	-	2 6
	23	To Expence	-	11 -
	24 " 25	To Coachhire 6/ Expence in Provision 5 ^l	-	10 6
	25 " 30	To Expence	-	-
1704/5	Jan: 31	To Horeshire to Woolage abot fetching the Gunns & And * money given the Servants	-	13 6
frô D ^o to Febr ^r	7.	To Expence; Going Twice to W Hall, before the Lords of the Plantations Twice	-	17 -
	8	To Charge going to White Hall abot Larrimore†	-	3 6
	9 th 10, 11	To Expence	-	7 -
	12: 13	To Ditto	-	5 -
	14	To Charges and expence Petitioning for a Man of War.	-	7 -
	15. 16. 17. 18	To Expences	-	9 -
frô:	18: 28	To Ditto	-	1 -
		To Cash given the Officer of The Tower	-	1 1 6
		To the Porters of the Tower carrying stores & my expence.	-	6 -
March	1: to 12	To expence and dyet 12 dayes att 2/ & 1 ^d P	-	5 4
	13 " 14	To expence and Provision	-	8 4
	15	To Petition put up to Q Counsell	-	8 -
	15 to 18	Expence 4 dayes, Waiteing on the Agent abot Peti ⁿ	-	10 -
	19	To Coach To W Hall and Expence	-	3 -
	20 " 21	To Expence and Provision	-	4 6
	22	To Expence & D ^o	-	2 -
frô	22: 29	To 7 dayes expence	-	15 -
	D ^o	Coach & Attending on the Queen & Counsell	-	3 3
1705	frô: 29: to 5	To 7 dayes provision & Twice to waite on the Agent	-	16 -
of April	to 12	To 7 dayes Expence	-	15 -
	13 " 14	To 2 dayes expence	-	4 -
		To charge of Waterage to Woolage 3/ and other expence about the Gunns 3/	-	6 -
	15	To expence and Provision	-	2 -
	16	To expence and Provision	-	2 6
	17	To Coach 2 ^l 6 ^d Provision 2	-	4 6
	18 " 19	To Two dayes expence and Provision	-	5 -
	20	To Cooperage att the Tower 4 ^s expence	-	6 -
	21	To Portrage att the Tower	-	5 -
	22	To Lighters of Stores aboard 11 ^s expence 2/	-	13 -
	22 to 29	To expence and Provision	-	2 -
frô	22: to 29	To 7 dayes Provision & expence	-	15 -
	30	To Coach 1 ^l 6 ^d Provision & expence 2 ^l	-	3 6
May.	1	To Coach 1 ^l 6 ^d Provision & expence 2 ^l	-	3 6
	2 " 3	To Expence & Provision	-	4 6
	4 " 5	Coach 2 ^l 6 ^d expence 5 ^s	-	7 6
	6: 7	Expence & Provision	-	4 6
	8: 9	Expence & Provision	-	4 3
	10 " 11.	Coach 1 ^l 6 ^d Provision 5 ^s	-	6 6
	12	Expence att Woolage 4/ 3 ^d To y ^e Offic ^r att Woolage Yard 10 ^s 9 ^d	-	15 -
	13: 14	To Expence and Provision	-	4 6
	15	To Coachhire 2/ 6: Expence 2/ 6	-	5 -
	16	To Coachhire 1/ 6 Expence 2	-	3 6
	17	To Expence and Provision	-	2 3
	18	To Carting the Gunns to the Crane	-	1 10 -
		To Lighterage of Guns aboard.	-	2 -
		To Marking the guns w th Province mark 8 ^s & my Expence going downe to put aboard D ^o 4 ^s	-	12 -
	19 to 23	To 5 dayes expence	-	11 -
	24	To a Bill drawn from Primms of the gunns 6 ^l 3 ^s Sterl att 50 P ^l : Advance on his Excellency	-	6 3 -

* *Stc.*

† One of the necessaries to Quetch's piracy, taken to England in the Sea Flower for trial under the act of Hen. VIII. See note to 1704-5, chapter 47.

Frô	24 de To	To 25 dayes expence and Lodging att 2 ^d	2 ^d 10 ^d -
June	18	To Cash for a Cockett for the Gunns	1 ^d - -
	19	To Expence dyet and Lodging	2 ^d 4 ^d
frô 19 to July:	4	To 15 dayes expence dyet & lodging att 2/6 ^d	1 ^d 17 ^d 6
to 14 De		Ten dayes dyet & expence att 2/6 ^d	1 ^d 5 ^d -
to 25		Ditto expence	1 ^d 5 ^d -
to 30		Ditto att Do	1 ^d 12 ^d 6
	30:	To Horsehire from London to Portsm ^o	1 ^d 18 ^d -
August 1:	to 22:	To Expence on the Road to Portsm ^o	- 8 ^d -
		Expence att Portsm ^o 21. dayes at 3/6 ^d p day with	
		Lodging at 6/ p week	3 ^d 13 ^d 6
frô:	22 to 29	To 7 dayes expence & dyet	1 ^d 1 ^d -
frô	29 to 7ber 8.	To Ten dayes dyet Lodging & expence.	2 ^d - -
		To Expence for Voy ^a home in Provision & drink	12 ^d - -
Carried forw ^d to Acco ^t			£107 ^d 8 ^d 8

Errors Excepted NATH CARY

London.

Province of the Massachussets Bay in N E

To sundry disburstm ^{ts} brought from Page	11	Dr ^s s d
4:	107 ^d 8 ^d 8	
To Advance upon the money Sterling, at,		
60 ^{li} p ^{ct} —	61 ^d 4 ^d -	
		£117 ^d 12 ^d 8

Boston N E

Ditto Province

To my Passage p the Ship Reward Capt ^a	11	Dr ^s s d
Gillam Com ^d	10 ^d - -	
To 18 moneths and three dayes wages vizt		
from July 4 th 1704 to Novemb ^r 20 th		
1705 att 8 ^{li} p m ^o	144 ^d 16 ^d -	
		£154 ^d 16 ^d -
		171 ^d 12 ^d 8
		£326 ^d 8 ^d 8.

Errors Excepted NATH CARY.

— *Mass. Archives*, vol. 101, p. 302.

For payment of the whole balance stated in Cary's account, the Governor and Council ordered a warrant* to be issued to the province treasurer December 5, 1705, and this amount appears by his account† to have been duly paid.

By the following entry in the executive records of the council it appears that on the last of December, 1705, Colonel Redknapp applied to the Governor and Council for materials to be used in mounting the ordnance:—

"Dec. 31, 1705. A Memorial was presented by Captⁿ Redknapp Her Maj^{ty}'s Engineer of Plank necessary to be provided for mounting of the Cannon lately sent from Her Maj^{ty}, at her Castle William, which was directed to be given to Mr Commissary General to provide accordingly. And also that he Examin the Stores what shot are there that will sute the s^d Cannon, and in case there be none, to inform himselfe what will be the charge of Casting some, and to Report it." — *Vol. 4*, p. 250.

The work of mounting, however, was not begun until the next spring. The executive records of the council between April 29 and May 20, 1706, are missing, but a resolve of the Governor and Council, on the fifteenth of May, is thus supplied by the News-Letter of the twentieth:—

"On Wednesday the 15th Currant, It was Resolved by His Excellency & Council, That Capt. Redknapp Her Majesties Engineer for the Continent of America be forthwith supplied with Materials for Mounting 20 Pieces of Cannon at Castle William, and to repair the Works, and raise more as shall be judged necessary for the Defence of this Place." — *No. 109*.

Five days later another vote‡ was passed, as follows:—

"May 20, 1706. The Govern^r acquainting the Council, that his Excell^y the Lord Cornbury Govern^r of New Yorke &c^o had written to Captⁿ Redknapp her Maj^{ty}'s Engineer to repair into that Province.

The Council unanimously desired his Excell^y to direct his attendance in this Province for her Maj^{ty}'s service until the new Cannon be mounted at her Maj^{ty}'s Castle William, and the worke there now in hand be set in order." — *Executive Records of the Council*, vol. 4, p. 286.

By the following entries it would seem that the work was not completed until late in the summer:—

"Aug. 8, 1706. Ordered. That the new Carriages for the Cannon sent by Her Maj^{ty} for Castle William, be primed, and that Elisha Hutchinson and Penn Townsend Esq^{rs} be a Committee to joyn^e with Captⁿ Redknapp her Maj^{ty}'s Engineer, in agreeing to have it done, at a reasonable rate and with Linseed Oyle." — *Ibid.*, p. 304.

* Executive Records of the Council, vol. 4, p. 245.

† *Mass. Archives*, vol. 122, p. 254. See notes to resolves, 1710–11, chapters 34 and 113.

‡ This was published in the News-Letter of the twenty-seventh.

"Aug. 22, 1706. An Accompt of Plank and Timber Rec'd by Captⁿ Redknapp Her Majty's Engineer of Mr Peter Coffin for making carriages for mounting * the Twenty new Cannon sent by her Majty for her service at her Castle William, amounting to Fifty one pounds, three shillings and nine pence was presented — And.

Advised and Consented. That a Warrant be made out thereupon to Mr Treasurer to pay the above sum of Fifty one pounds, three shillings & nine pence to the s^d Mr Coffin accordingly." — *Ibid.*, p. 309.

By the province treasurer's account† it appears that payment was duly made on the above warrant.

"Aug. 29, 1706. An Accompt of Thomas Child Painter, amounting to thirty pounds, for priming and painting twenty carriages for the Twenty new Cannon at Her Majesty's Castle William, according to agreement with the Committee, and so certified by them, was presented — And.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of thirty pounds to the s^d Thomas Child accordingly." — *Ibid.*, p. 312.

By the province treasurer's account† it appears that payment was duly made on the above warrant.

The following executive orders were passed to provide and protect shot, etc., for the new guns: —

"March 8, 1705-6. Ordered. That Elisha Hutchinson, John Walley and Andrew Belcher Esq^s be a Committee to treat and agree on the best terms they can, for the casting of twelve rounds of shot for the new Cannon at Her Majty's Castle William, lately sent by her Majty and that they Advise with Captⁿ Redknapp her Majty's Engineer now at New York, about the said shot, if he return to this Province before the Casting of the same, which the season requires to be forthwith prepared for and set about." — *Ibid.*, p. 268.

"Feb. 12, 1707-8. Ordered. That Cole Hutchinson Mr Commissary General and Captⁿ Tuthill be a Committee to consider and direct the speedy providing of Stockados, Materials for the rayseing and Epolmint before the Powder house, and shot that are wanting for the great Ordnance at Her Majty's Castle William." — *Ibid.*, p. 534.

Chap. 94. This chapter is from archives, vol. 71, p. 193. It is recorded in council records, vol. VIII., p. 177.

In the note to chapter 92, *ante*, some account has been given of attempts to regulate the wages of the garrison on Castle Island.

The following resolve and votes of the House remain in the archives and are given here exactly as written save an appended memorandum that they were read in Council in November, 1705. Since it has not been ascertained that they were not received as mandatory by the Council, or accepted by the Commander-in-Chief as expressive of a grant by the popular branch of the Legislature, they are here inserted: —

"In the House of Representatives. Nov^r 28: 1705

Resolved That there shall not be Allowed above Serjeants Pay viz^t nine shillings P week, where there is not above twenty Souldiers, Posted at any Town: nor above Lieutenant's wages viz^t fifteen shillings P week, where there is not above forty Souldiers posted, and where there is between fifty & Sixty Captain's Pay, and no more viz^t Thirty shillings P week.

That there shall not be any wages Allowed for a Commissary at Saco, nor for any other Officer there, above a Lieutenants Wages, viz^t fifteen shillings P week, and s^d Lieutenant Supplying the Commissary's Place, shall be allowed two shillings P week more.

That there shall not be Allowed wages to above Thirty Officers, and Souldiers, at the Castle William, from this time unto the first of April next, nor for above Eighty Officers, and Souldiers, from the first of April next, unto the last of September, following.

Voted That His Excellency be Requested, That for a Supply of Souldiers, at Castle William, in time of Exigency, or when there is any Alarm, there shall five Souldiers, be freed from military Service, except watching, in each Company in Boston, that shall be Listed ready to Attend upon one hour's Notification, by the Signalls of an Alarm, as the law Provide's and ten at Charlestown, and ten at Roxbury, and ten at Dorchester these to Traine four Daies, at the s^d Castle, in one Yeare, and that they may be freed from all other Impresses.

Voted That the Chaplain, at Casco fort be Improved to Officiate in the place, of a Commissary, if His Excellency & Councill think it Convenient, and s^d Chaplain accept thereof, then he shall be Paid out of the Treasury ten pounds more than Chaplain's Wages.

Sent up for Concurrence.

THOMAS OAKES Speaker." — *Mass.*

Archives, vol. 71, p. 188.

The motion and resolve which constitute this chapter were adopted in the House on the thirtieth of November and sent to the Council for concurrence, where, on the same day, they were read. On the first of December they were concurred in.

As stated in the note to chapter 40, *ante*, this resolve does not appear to have been expressly consented to by the Governor. Another vote of advice respecting the pay and a reduction of the garrison was passed by the House the next year, as follows: —

"In the House of Representatives Nov^r 11th 1706

... That It be humbly offered to his Excellency's Consideration, that the Officers, & Souldiers at Castle William, be reduced, to the number following from the 1st of Novem^r until the 16th of April, & to be paid accordingly. A Captain or Lieutenant upon the place.

* By the following Item it seems the work of mounting was completed on the third of August: —

"On Saturday last, by the great diligence of Capt. Redknapp Her Majesty's Engineer, the 20 pieces of Cannon were mounted at the Castle of this place; The Garrison consisting of 200 men besides Artificers daily working there; so that now all is very compleat: A Regiment consisting of 500 men under the Command of Col. Hutchinson being always in readiness for the Service there." — *Boston News-Letter*, No. 120. July 29 to August 5, 1706.

† *Mass. Archives*, vol. 122, p. 230.

One Chaplain. Mr. Will^m Barnsdale or one Master Gunner, that Sustain's no other office. Four Quarter Gunners. Two Serjeants. One Drummer. Two Corporals. Twenty five Centinels. in all Thirty Seven.

This Number We hope will moderate the charge in that the last Muster Roll, from the first of Novem^r 1705, untill the 30th of April 1706, amounted to £,573, .2, .1, which we cannot tell but may still amount to more, in that his Excellency hath (upon signing the Muster Rolle, dated July 22: 1706) Entred a Saving to Capt: Tuthill his further Challenge, when as he is paid after the Rate of Sixty Pounds, p annum, as Lieut: & Gunner, contrary to the vote of this House, that he Should Sustain two offices at the s^d Castle. . . .” — *Ibid.*, p. 264.

To this, the Governor replied as follows: —

“ . . . I thank the representatives for their acceptance of any thing on my part & their advice, referring to the winter posture of y^e Forces. I shall direct that the number of the Garrison at the castle be reduced as they desire saving the boats Crew which they have forgotten,

& Referring to the officers there I cannot be directed what officers to put together, nor receive any Nomination of military officers from the House of representatives in derogation of her Majestyes prerogative.

We are surprised That After so many years Experience of the The two offices of Lt & Gner being together it should now be Impracticable, when at no time there has been a better officer supporting these places in my memory,

The saving for Captain Tuthills contayns thus much that since there was an Establishment at the Castel made by the Governour Council and assembly in Due form of law in the year 1700 and sent home to his last Majesty I dare not repeal that Establishment without her Majestyes direction & therefore underwrite a saving thereof. . . .” — *Ibid.*, p. 267.

Chap. 95. This chapter is from council records, vol. VIII., p. 177. It has not been found in the archives.

The following is the order for a warrant to the treasurer to pay both Carey and Sill: —

“Dec. 5, 1705. To Matthew Carey the sum of Ten pounds, sixteen shill^{gs} and to Thomas Sill the sum of nine pounds ten shillings and four pence for their service as Waiters on the Impost Office to the Thirtieth of November past.” — *Executive Records of the Council*, vol. 4, p. 246.

For reference to the province treasurer's entry of payment of the allowance granted by this chapter see the note to chapter 24, *ante*.

Chap. 96. This chapter is from council records, vol. VIII., p. 178. It is preserved in archives, vol. 101, p. 300.

This resolve originated in the House November 29, 1705, and was sent to the Council for concurrence. On the third of December it was concurred in, and signed by the Governor.

See chapter 79, *ante*, and note.

Chap. 97. This chapter is from council records, vol. VIII., p. 178. It has not been found in the archives.

See notes to chapters 92 and 94, *ante*.

Chap. 98. This chapter is from council records, vol. VIII., p. 180, and archives, vol. 71, p. 176.

The following is the petition mentioned in the preamble to this chapter: —

“To his Excy Joseph Dndley Esqr Capt^l Generall and Gov^r in Chief in and Over her Majty^{ty} Province of the Massachusetts Bay in New England, the Hon^{ble} the Council, and Representatives now in the Generall Court Assembled

The humble Petition of Searj^t John Fisher of Dedham

Sheweth,

That On or about the Twentieth Day of August next Following the breaking forth of the Rebellion of the Indians, upon the same day that your Excys declaracon of War* was published at Natick by yor Excys special Comand given to John Leverett Esqr Your humble Peticon^r was Ordered to take Care of the Indians inhabiting the Plantacon of Natick, and to prevent the s^d Indians from travelling or hunting beyond the bounds and Limits then set them by yor Excy, and afterwards Ordered and Appointed by this hon^{ble} Court, and to p^rform the Office and Service of A Serjant, w^{ch} Service your peticon^r hath p^rformed faithfully according to the Orders and directions from time to time rec^d either from yor Excy Immediately or from the afores^d John Leverett Esqr Comissioned by yor Excy and the Hon^{ble} the Councell to Govern the s^d Platacon and others the Plantacons of Indians wthin the bounds of the Late Colony of the Massachusetts Bay, For which service your peticon^r hath as yet rec^d but ten pounds and there remains unpaid and due to him One Year and three Quarters Wages, the want whereof is greatly to the disablem^t of your peticon^r in paying his duty to the publiek, and other necessary Charges,

Wherefore yor said humble Peticon^r prays yor Excy and this Hon^{ble} Court to take the premisses into your serious Consideracon, and provide such redress for yor poor Peticon^r as in your great Wisdom and Justice shall seem reasonable.

And yor s^d Peticon^r as in Duty bound Shall Ever pray &c

Nov^r 2^o 1705.

Archives, vol. 71, p. 175.

JOHN FISHER.” — *Mass.*

* This declaration was advised by the Council August 18, 1703. See note to resolves, 1703-4, chapter 53, p. 302, *ante*.

This petition was read, first, in the Council on the seventh, and next in the House on the fourteenth, when probably it was referred to the standing committee on claims, since the report of a committee on file apparently shows that their first report was recommitted on the thirtieth, and an amended report made on the fifth of December, as follows :—

"In answer to sd petition The Comitte Report That y^e monyes Granted by y^e Corporation was Granted as we Conceine for suppo^t of ye petitioner In yt affair &c & cannot be better Improved then to pay as formerly to Maj^r Gookin for ye Endeavouring ye bringing of them under Ciuill powers & ye Laws & orders of this prouinc as ye English are: & If any was appointed by the prouince or authority in ye same to Inspect them, at * is not made to appear; nor are we without full Information yt s^d Indians haue bene restrayn^d (soe far) but yt they haue brought ye people thereabouts under fears as well as suspition yt mischeif might haue bene don by them or to them." — *Ibid.*, p. 178.

The resolve which constitutes this chapter was passed by both branches and consented to by the Governor on the fifth of December.

This is also the date of the warrant† to the province treasurer for payment of the allowance granted by this chapter, and this amount‡ appears by his account to have been duly paid.

The Hon. John Leverett was appointed commissioner for the government of the Natick Indians by the following order in Council :—

"Aug. 5, 1703. His Excelley nominated, John Leverett Esq^re to have the Rule and Government of the Indians of the several Plantations, within the late Colony of the Massachusetts Bay, and to be Commissioned accordingly.

Which was Advised and Consented to." — *Executive Records of the Council*, vol. 3, p. 462.

In the foregoing petition it will be seen that he appointed, a few weeks after he received his commission, Sergeant John Fisher as his immediate agent in the performance of his duties of commissioner. Fisher, as sergeant, and Josiah Chapin, as captain, appear on the same pay-rolls; and it may be, therefore, that the former belonged to the company commanded by the latter. No other record than the above petition has been found of Fisher's appointment as Leverett's agent.

The ten pounds previously received by Fisher was under the following order in Council for a warrant to the treasurer :—

"Aug. 19, 1704. An Accompt presented by John Leverett Esq^re Commissioner for the Rule, Government and oversight of the Friend Indians within the late Colony of the Massachusetts, of his necessary expences, with a Trooper in Journeying abt that Affair, amounting to the sum of ten pounds, & ten pounds to Jonathan Badcock for his care and Travail with and for the Indians at Punkapoag from August 13th 1703, to the 13th of August 1704 and ten pounds to John Fisher for his attendance on her Maj^y's service among the Indians at Natick, from November 21st 1703. to the 21st currant and twenty five shillings supplied them in ten bushels of Indian Corne, was read & allowed—and.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the sd sum of thirty one pounds, five shillings to the said John Leverett Esq^re accordingly, on behalfe of himselfe and the other persons above named, there respective proportions thereof." — *Ibid.*, vol. 4, p. 58.

The entry in his account of payment for this amount is made as follows :—

"Paid John Leverett Esq^r for his own necessary expences wth a Trooper in a journey about his care & oversight of y^e friend Indians and on behalfe of Jon^l Badcock for his care & travail wth & for y^e Indians at Punkapoag & on behalfe of John Fisher for his Attendance on her Maj^y's service among y^e Indians at Natick & for Ten Bush^l Corn for Subsisting of the Naticks 31 11 5 "

— *Mass. Archives*, vol. 122, p. 232.

Chap. 99. This chapter is from council records, vol. VIII., p. 181. It has not been found in the archives.

Nothing has been found either in the archives or records throwing any further light upon the dishonesty of the Littlefields as implied in this chapter.

The order in Council† for the payment of the allowances granted by this chapter was passed December 5, 1705, and the province treasurer's account‡ shows that they were duly paid.

Chap. 100. This chapter is from council records, vol. VIII., p. 181. It has not been found in the archives.

At the beginning of the second session this year Governor Dudley broke his comparatively long silence on the subject of the queen's commands concerning the establishing a permanent salary for the governor and lieutenant-governor. This he did in the speech most of which is printed in the note to chapter 52, *ante*, in which he communicated the letters of January 25, 1701-5, from the Privy Council.

On the next day the representatives, in their message in reply to the Governor, as shown in the note to chapter 52, *ante*, declared that the "settling of salaries" was one of two subjects of so great consequence that further opportunity would be required for considering them. In that note, also, is given the correspondence that followed between the Governor and the House, including the message of the eleventh of September, by the latter, the vote of the Council not to advise "the settling of a fixed salary for the governor and lieutenant-governor for the time being," and the final adoption of an address to the queen instead of further legislative action.

* *Sic*: *ms.*

† *Executive Records of the Council*, vol. 4, p. 246.

‡ *Mass. Archives*, vol. 122, p. 258.

Upon his failure to carry his point,* Dudley wrote to the Lords of Trade under date of the first of November, representing to them the obstinacy of the Assembly, as follows:—

“To the article of salaries they plainly answer they stand upon their rights they will not do it, and alledge their Charter for it, which says nothing thereof, but add that they will support their Governor but always as they please which has been hitherto about five hundred pounds of this Country money which amounts not to three hundred and fifty pounds sterling that will by no means support the expense of a table, servants & horses.”—*New England, Board of Trade*, vol. 55, p. 75, in *Public Record Office*.

In little more than a month after the sending his complaints to the Lords of Trade he rather ungraciously accepted from the House another “present” of two hundred pounds. The manner in which it was tendered, and acknowledged by the Council, thus appears on the record:—

“Dec. 5, 1705. Lieut. Coll. Checkley Mr Jewett Mr Blagrove Cpt. Phipps and Mr Hol-yoke of the Representatives attended his Excellency with a Message & in their Name returned the Thanks of the House to his Excy. for his good Service in the Government, & presented him with a Grant of the House for the Sum of Two Hundred Pounds.

Upon Reading whereof James Russell Elisha Hutchinson, John Foster Andrew Belcher Penn Townsend Sam^l Patridge Ephraim Hunt & Nath^l Payne Esq^{rs} with the Seery. were Ordered by the Council to move the House to a further Consideration thereof, As also to consider the Expence of Mr William Dudley in his late Voyage to Canada.”—*Council Records*, vol. VIII., p. 180.

The House firmly adhered to its tender of two hundred pounds “without any Augmentation of the Sum.”†

A warrant ‡ on the treasurer for the two hundred pounds was ordered on the same day. Not long after, he received in one sum the amount § of this grant and the three hundred pounds granted him by chapter 45, *ante*.

Chap. 101. This chapter is from archives, vol. 71, p. 194. It is recorded in council records, vol. VIII., p. 181.

For an account of the services for which William Dudley was remunerated in this chapter see the note to private act, number nineteen.

The order in Council ‡ for the payment of this allowance was passed December 5, 1705, and the province treasurer's account ¶ shows that it was paid.

In the message sent from the Council to the House in answer to the message of the representatives presenting to the Governor their thanks, together with a grant of two hundred pounds, the House was moved “to consider the expense of Mr. William Dudley in his late voyage to Canada.” The present chapter was passed as an answer to that message on the day it was received.

See note to chapter 100, *ante*.

Chap. 102. This chapter is from archives, vol. 58, p. 244. It is recorded in council records, vol. VIII., p. 181.

The eccentric persons who excited the town and provoked the ire of the Legislature to the extent shown in this chapter were father and son. Their peculiar notions were probably the result of that tendency to depart from generally accepted views, and that strong impulse to proclaim original ideas, however fantastic, which is induced or greatly stimulated by persecution. They seem to have imitated the example of, and at one time to have fellowshipped with, the Quakers, and like them to have courted the rigorous treatment which was dealt out to the early Friends in Connecticut Colony, where the Rogerses belonged; || but they went far beyond their former brethren in their eccentric doings and teachings. Like all other sincere enthusiasts these Rogeres attracted devoted followers, who applauded their eccentricities, and regarded their judicial punishments as tokens of their confessorship.

The immediate violation of law which called down upon the two Rogeres the retribution of the judiciary and the vengeance of the Legislature is thus narrated in the *News-Letter*:—

“*Boston*, On *Tuesday* the 23d Currant, Complaint being made to *Edward Bromfield Esqr.* One of Her Majesty's Council, and Justice of the Peace; of *John Rogers & Son*, of *New-London in Connecticut-Colony* for Profanation of the Sabbath, in Driving of Cattle through the Town of *Dedham* to *Boston* for a Market on the 21st Instant, being the Lords-Day; And opprobriously answering those who dissuaded him there-from; for which being brought before the said Justice, and legally Convicted, he was Sentenced according to the Direction of the Law in that case, to pay the Fine of *Twenty Shillings*: He Appealed to the Quarter-Sessions of the Peace, but obstinately refused to give Security to prosecute his Appeal, and therefore is Committed to Prison.

* “It was a great disappointment to be able to carry neither of these points, [*i.e.*, the building of a fort at Pemaquid; contributing towards the charge of Piccataqua Fort; and the settling of fixed salaries on the Governor, etc.] which the ministry were very much set upon, and which it is not improbable they were encouraged might be obtained. Had they been matters less unpopular, yet the Governor's weight at this time would have been scarce sufficient to have carried them through. The prejudices against him were great. The people in general looked upon him as an enemy, even to the privileges of the new charter.”—*Hutchinson's Hist. Mass.*, ed. 1795, vol. 2, p. 140.

† Preamble to the record of the resolve which constitutes this chapter. *Council Records*, vol. VIII., p. 181.

‡ Executive Records of the Council, vol. 4, p. 245.

§ *Mass. Archives*, vol. 122, p. 252.

¶ *Ibid.*, p. 255.

|| Miss Frances M. Caulkins devotes a chapter in her *History of New London* to the story of the Rogers family and their religious vagaries.

It was thought meet at the Desire of several persons to Publish this as a Caveat to others, to let People know, That *Open Profanation of the LORDS-DAY, will not pass Unpunished*. As also, Because the man thus Fined, pretends himself to be a Sufferer for his *Conscience*, and has therefore even *courted* the Inconveniencies that are come upon him. And whereas the *Quakers* have a while since endeavoured by their False Addresses at home in *England*, to misrepresent the Government of this Province, for Making and Executing *Several severe Laws, against their Friends, only for their Conscientious Dissent from the National Way and not for any Evil Fact done by them*: The Publick may be informed what kind of *Severe Laws* those are, and what kind of *Profanity* may pass for a *Conscientious Dissent*, among those that Clamour against the Country for *Persecution*, in Executing the Laws of God and man, of our Nation of *England* and this Province." — No. 80. October 22 to 29, 1705.

For this breach of the acts for the observance of the Lord's Day they were arrested. Confident, as religious enthusiasts usually are, that they were the special objects of divine interest they looked for deliverance from Heaven. This comforting assurance they were not content to rest upon silently but communicated it to the Legislature, with an explanation of the reasons of their conduct, which looks something like an apology.

The following is the brief paper in which they made their case known to the General Court, being careful to intimate their desire that it be read in "the lower house first:" —

"From Boston prison, to the General Court now assembled in Boston this first day of the 9th mo 1705.

Hon^d Assembly (we whose names are under written) haue sent you our belief in print concerning worldly Governmt And do signifie to you, that we are imprisoned by two judges for driving cattel on the 21. day of the last month which day we cannot worship: because there is one only true god, that made both day and night, whom we fear and worship: and therefore cannot worship the workes of his hands: tho' we are required so to do, by the commandment of men, and therefore we haue rather appealed to god for judgmt and haue committed our bodies to the prison for your security till he shall deliver us.

JOHN ROGERS

JOHN ROGERS Jun^r. — *Mass.*

Archives, vol. 11, p. 201.

The elder Rogers had given offence to the authorities of Connecticut * in 1697, for "printing and publishing a book reputed scandalous and hereticall."

The titles of the two pamphlets condemned in the present chapter have not been discovered in the public records. Sabin gives the titles of several tracts published by Rogers during that year in his American Bibliographies.

Chap. 103. This chapter is from council records, vol. VIII., p. 181. It has not been found in the archives.

See resolves, 1706-7, chapter 53, and note.

Chap. 104. This chapter is from council records, vol. VIII., p. 181, and archives, vol. 17, p. 107.

The following is the petition mentioned in the preamble to this chapter: —

"To his Excellency Joseph Dndly Esqr: Cap^t Generall and Comander in cheife ower the province of the Massachusets Bay &c and the honorable Counsell and Representatives now in Generall Court assembled in Boston September 5th 1705/

The humble petition of Abigail Watkins Relict widdow and administratrix of the Estate of John watkins † late of Charlestown deceased: is as followeth

That whereas yor petitioners Husband, som tyme since desaeasing left five young children and but a very small Estate, the InCome hath been so litle that yor petitioner hath been Exposed to verý great deficntý to bring them up hitherto Which deficulties are still growing upon me, and the Estate left by my husband being much Indebted = he having purchast the on halfe of it himselfe = and the goods and chattels belonging thereto = not being sufficient to answere the Just debts of the deceased as may apere by the Inventory and administratrix acoempt Exhibited in to the Court of probate for middlx I have there for presumed to present my petition to yor Hon^{rs} that yow would please to grant me liberty to sell that litle that was left by my husband that so my own and my childrens necessities may be supplied and the Creditors payed = if yor hon^{rs} in yor wisdom shall see meet to grant my Request yow will greatly oblidge yor hon^{rs} humble petitioner —

who shall Ever pray

ABIGAIL WATKINS. — *Mass.*

Archives, vol. 17, p. 106.

With this petition, apparently, was filed the following copy of the petitioner's account as administratrix, with a brief memorandum thereon of her oath thereto, and of the allowance of the account by the judge of probate: —

"The acoempt of Abigail Watkins administratrix of and singulare the goods chattels Rights and Credits of mr John Watkins Late of charlestown deed Intestate as well of and for, so much of the same goods chattels &c as Came to here hands as of and for here payments and disbursments of the same — as followeth

The said acoempt Chargeth here selfe with all and singulare the goods chattels Rights and Credits of the said deceased: specified In ane Inventory there of Exhibited into the Register of sd County of middlex = march 8 1702 amounts as þ the same apere to —

* Colonial Records of Connecticut, 1689-1706, p. 201.

† The intestate died of small-pox apparently in 1702-3, but the exact date has not been ascertained.

The sum of	lib 215 = 1 — 0
Since to be added p Cash Received = of Capt John Phillips	08 = 07 — 06
from Capt Belcher	07 = 15 — 11
Debts due from the Estate yet unpaid	
To Capt Belcher	08 — 09 — 11
To m ^r Joseph L[*]	[*] — 00
To Capt Eliezer [Phillips*]	05 — 09 — 10
To Thomas Russell	05 — 00 — 00
To Capt Rouss	05 — 00 — 00
To a man at Springfield	01 — 12 — 00
To m ^r Thomas Atkins	00 — 11 — 00
	35 = 17 = 09

The Sd accomptant p Contra is Creditor and petitions for allowance of sundry payments and disbursements as followeth	lib	sh	d
<i>Impr</i> for funerall charges	12	=	12 — 07
To doctor Reed 01 — 09 — 06: to m ^r s Trumble 02 — 00 — 00	03	=	09 — 06
To Thomas Russell 02 — 10 — 00 to Jonathan Cary 0 — 7sh 3d	02	=	17 — 03
To good wife Leman 3sh: to John Edmister = 4sh =	00	=	07 — 00
To nurss whit 18sh = to Capt Eliezer phillips 01 — 07 — 00	02	=	05 — 00
To Levit Douss 11sh = to nurss Robison 03 — 10 — 00	01	=	01 — 00
To Seeth Switcher -03 — 09 — 03 = to John Rand 2sh	03	=	11 — 03
for 11 months diet and schooling abroad = of John and Thomas watkins Some of the tyme befor my husbands death — and som tyme afterward at 12sh p month	13	=	04 — 00
To maids wages in tyme of Sicknes 12sh = 6d = for the pump — 3sh	00	=	15 — 06
To the Judge and Registering	00	=	10 — 00
By prising the Estate and taking the Inventory	00	=	06 — 00
for Cloathing = shous = firewood: and other nesesaries for the suport of my family since my husbands death: being my self & five children	50	=	08 — 00
for two Jurneys of man and horss to the honorable Judge	00	=	06 — 00
To the honorable Judge of probats for allowing the acompts	00	=	05 — 00
To the Register drawing Registr ^{ing} filing y ^e acco ^t	00	=	03 — 00
Sum tot ^l	94:	16,	01
Ballance Remaining in y ^e Accomptants hands to be disposed Of as y ^e Law directs	£136:	8:	4
Saving y ^e thirty Five pounds seventeen & ten \dagger pence On y ^e Other Side	231	„	4 „ 5

ABIGAIL WATKINS

Cambridge ffeb^r 28^o 1703

Abigail Watkins adm^{ix} Of All And singular y^e Goods Chattles &c of m^r John Watkins Late of Charlestowne deced p sonally appearing Before me Made Oath y^t y^e Above written Contains a just and true acco^t Of her Administration On s^d Estate to this day And prays Allow^e for y^e same And y^e s^d Acco^t is allow^d

Jur & Approved Cor JOHN LEVERETT J P.

A true Cappy from y^e Originall Exa^t p THO: SWAN Reg^r — *Ibid.*,

p. 104.

The above petition, which was presented at the second session, having been kept alive by resolve, chapter 53, *ante*, came up in the third session and was read in the House on the twenty-sixth of October. Five days later the following order was passed and sent to the Council for concurrence, but no action thereon by the Board has been discovered:—

“In the House of Representatives. Octo^r 31: 1705

Read and in answer to the Petition on the other side.

Ordered That s^d Administratrix be Impowered with the Consent and advice of Sam^l Heyman Esq^t and Mr William Jamison to sell s^d reall Estate Inventory^d, and Discharge the Debts remaining due from s^d Estate: and one third part of the surplsnage, be allowed to the use & benefit of s^d Abigail, and the youngest of s^d Watkins his children for ever: the other two thirds to be divided in eqvall parts amongst the rest of s^d Watkins his children, that live to age, the s^d Heyman & Jamison to put out s^d money: & the Interest thereof till the children come of age, shall be Improved by the widow for the benefit of her self & the children a^t her maintenance, till the other come to age respectively who then shall receive their s^d proportion.

Sent up for Concurrence.

THOMAS OAKES Speak^r. — *Ibid.*,

p. 107.

See, further, resolves, 1706-7, chapters 53 and 138, and notes.

Chap. 105. This chapter is from council records, vol. VIII., p. 185, and archives, vol. 40, p. 837.

Thomasine, the daughter of William Elson, became successively the wife of David Harris and Erasmus Babbitt, to the latter of whom she was married November 18, 1700. By her first husband she had, among other children, two sons, Elson and Joseph. In Jan-

* Manuscript mutilated.

 \dagger *Sic.*

uary, 1699–1700, during her widowhood, she conveyed* to these sons the real estate which was the subject of litigation in the suit referred to in this chapter, and of which she was lawfully seised, and they in turn conveyed† the same, in 1705, to James Meinziez, mentioned in said preamble.

The petitioners named in this chapter having respectively recovered judgment against Erasmus Babbitt, in the Inferior Court of Common Pleas for Suffolk County, caused the executions issued upon said judgments to be levied upon said real estate, evidently supposing it to be the proper estate of the defendant. These levies, which, together, covered the whole estate, were made, respectively,‡ on January 13, 1702–3, and May 3, 1703; and the executions were duly returned by the sheriff, and the service recorded.

During the interval between the dates of these levies and Meinziez' purchase, Thomas Fosdick and Michael Newman, mariners, came into the occupancy of the premises as tenants to the petitioners. At the September term of the Inferior Court of Common Pleas for Middlesex County, therefore, Meinziez brought an action against Fosdick and Newman, jointly, in a plea of trespass and ejectment. The writ was returnable at Cambridge, the second Tuesday of September, 1705; and at a court held by adjournment on the eighteenth the cause was "Continued till the next Term pursuant to y^e Law of the Province The Defendants being out of the Province at y^e time of y^e Service of the writ."§

At the next term, held at Charlestown on the eleventh of December, the cause was tried upon the plaintiff's declaration that the defendants "haue illegally Entered into, and Do refuse to Deliver un to y^e plt the possession of" the premises as described, which "Do of right belong unto y^e plt James Meinziez, as p^r his Deed thereof to him made and Legally Executed, in Court produced, under y^e hands and Seals of Joseph Harris and Elson Harris the Grantors Dated: 11th August: 1705: may more fully appear," etc. The *ad damnum* was two hundred pounds. The defendants were called and defaulted, "they nor Either of them appearing by them Selues, or any lawfull Attorney for them."|| Judgment was entered up for the plaintiff and execution was issued upon his giving bond as required by law in the case of absent defendants.¶

Upon this execution Meinziez was put into possession of the demanded premises by the defendants.

In this suit the defendants did not avouch the petitioners as their lessors, and no appeal having been taken, there was no remedy left them but to apply to the Legislature.

This they did in the following petition:—

"Suffolke ss/ To his Excellency Joseph Dudley Esq^r, Cap^t generall & Govern^r in cheife in and over the Province of the Massachusetts Bay &c^a And the honorable the Council and house of Representatives in Generall Court assembled

The humble Petition of John Pitts of Boston in the County of Suffolke Merch^t and Samuel Holland of S^d Boston Merch^t (on behalfe of himselfe & his Partner) Thomas Brooks late of Boston aforesaid Merch^t—
Sheweth

That y^{or} Pet^{rs} in the Yeares 1702 & 1703 recovered Judgments against Erasmus Babbitt of Boston aforesaid Shopkeeper for Severall Sums of money as by the Executions annexed may appear, and by vertue whereof they were possessed of the housing Land &c^a therein menconed & recorded the same as the Law directs and held the same in their possession by their Tenants from the said Yeares 1702 & 1703 untill January last

When one James Meinziez of Boston Gen^t a Practiser in the Law by Vertue of a pretended Deed from the Son of Thomazin Harris the wife of said Erasmus Babbitt commenced an Accon of Ejectment at an Inferiour Court held in Charlestowne for the County of Middlesex in the said Month of January against y^{or} Pet^{rs} Tenants for the possession of said house &c^a

And notwithstanding y^{or} Petitioner appeared by their Attorney in said Court yet for want of a Power of Attorney from their Tenants, Judgment went ag^t them by Default, although there was one of the Tenants never was within the Province since the Commencing said Accon. And y^{or} Petitioner's Attorney Offered to haue y^{or} Petitioner's Admitted Def^{ts} in the stead or place of their Tenants and goe to try the Title/

Which y^{or} Petitioner's p^{rs}sume and are Informed are contrary to the common practise and must be Inevitably prejudiciall to all Landlords where the Tenant will Wilfully suffer a Judgment to pass by Default, there being no Redresse in such Cases either by Appeale or Review as the Law directs in other cases—

Y^{or} Petitioner's therefore humbly Supplicates y^{or} Excellency and the Hon^{ble} the Assembly to take the p^{rs}misses into y^{or} Serious Consideracon and set y^{or} Petitioner's in the same state they were at the time of Commencing of said Accon that so they may be enabled to Defend their Title to the p^{rs}misses by being Admitted Defend^{ts} in stead of their Tenants And in the mean time to Stop Execution upon said Jndgm^t the said James Meinziez threatening to take out Execution upon the same and turne their Tenants out of Possession And further to doe as to y^{or} Excellency & Honours shall seem meet.

And y^{or} Petitioner's (as in duty bound) shall ever pray &c^a/

JOHN PITTS
SAMUELL HOLLAND.—*Mass.*

Archives, vol. 40, p. 537.

This petition was read in the House April 11, 1706, and the following order was passed thereon and sent to the Council, for concurrence:—

* Middlesex Registry of Deeds for the Southern District, book 12, p. 433. This estate she acquired by devise under the will of her brother, James Elson. See the deed last mentioned, and the record of said will in Middlesex Registry of Probate, vol. 5, p. 250.

† Middlesex Registry of Deeds for the Southern District, book 13, p. 792.

‡ See attested copies of the executions and returns in *Mass. Archives, vol. 40, pp. 838–845.*

§ Middlesex Court of Common Pleas: Records, vol. 1, p. 76.

|| *Ibid.*, p. 78.

¶ Province Laws, 1700–1, chapter 20, § 3.

"Ordered That a Hearing be Granted upon this Petition on the Second Friday of the next Session of this Court, the Parties, to be notified And That Execution be stop'd in the mean time." — *Ibid.*

In this order the Council voted a nonconcurrence, and on the same day, it seems, Meinzie appeared before the Board, and upon "his own free submission" the Council passed the order which constitutes this chapter, and sent it to the House for concurrence. It was concurred in forthwith, and consented to by the Governor.

By virtue of this chapter Pitts and Holland brought a writ of review in the Inferior Court of Common Pleas, held at Concord for the county of Middlesex, June 11, 1706, when "ye Parties appearing The Defend^t Pleading that the former Judgment is right and ought to be Confirmed, The writt read wth ye pleas and Evidences Respectively Tendered The Case after a full hearing thereof was Comitted to y^e Jury who returned their verdict thereon finding for the Defend^t Confirmation of the former Judgment and Cost of Courts."*

Judgment was entered up according to the verdict, and the plaintiffs appealed to the Superior Court of Judicature to be held at Cambridge on the thirtieth of July, following.

The plaintiffs' reasons of appeal were as follows:—

"MIDDLESEX. ss. To the honorable the Justices of her Majties Superior Court of Judicature to be held at Cambridge for the County aforesaid the last Tuesday of July 1706./

John Pitts & Samuel Holland of Boston
in the County of Suffolk Merch^{ts}

} Appell^{ts}

James Meinzie of Boston aforesd^t
gentl

} Appellee

The Appell^{ts} Reasons of Appeal from a Judgment obtained ag^t them by the said James Meinzie at an Inferiour Court of Common Pleas held at Concord for said County the 11th of June 1706./

The action was an Action of Review of an Action of Ejectment brought by the Appellee ag^t the Appell^{ts} Tenn^{ts} for the possession of a house & land &c scituate in Charlestown as by writt &c where Judgment was given against the Appell^{ts} Tenn^{ts}

1st Which Judgment is wrong & ought to be reversed for that by Law the same ought to be rendered for the Appell^{ts}/

2 For that the Appell^{ts} claimies by a Deed from Joseph Harris & Elson Harris who is an Infant & under the Age of 21 yeares & therefore by Law incapable of granting any housing or Lands.

3 That Jo: & Elson Harris have their right by Deed from their Mother Thomasin who hath the same by vertue of Old Mr Elsons Will & conveys the same to them by reciting a false Codicell of pretended Will of Elsons when there was noe such Codicell

Which matters & things being duely considered the Appell^{ts} doubt not but the former Judgment will be reuersed & costs allowed to yor Appell^{ts}

Charlestowne July: 11th: 1706. Reced Atts Sam^l Phipps Cler

Jo: HEARNE Appell^{ts}. — *Suffolk Court Files.*

To these reasons the defendant made the following answer:—

"Middlesex. ss: To the honorable the Justices of her Majties Super Court of Judicature to be held at Cambridge for the County aforesd the last Tuesday of July 1706./

John Pitts & Sam^l Holland of Boston
in the County of Suffolk Merch^{ts}

} Appell^{ts}

James Meinzie of Boston aforesd — gentl

} Appellee

The Appellees Ansners to the Reasons of Appeal given in to sd Court by the Appell^{ts} aforesd as followeth

1st The aforesd Reasons of Appeal ought to be quashed becaus the Appell^{ts} do only say the action was an Action of Review of an action of Ejectment brought by the Appellee ag^t the Appell^{ts} tennents for the possession of a house & land in Charlestown As by writt &c. Where Judgment was given ag^t the Appell^{ts} tennents but do not in the least mention for what the Judgment was for, or when Recovered ag^t the sd Tennents;

2 Where he say's the Judgment is wrong & ought to have been rendered for the Appell^{ts} It is Answered the same by law is Just & ought to be Confirmed becaus the Appell^{ts} do's not in the least mention whither the Judgment on the Review or the Judgment ag^t the Appell^{ts} tennents ought to be Reversed;

3 The Appellees Claime by a deed from Joseph & Elson Harris tho the sd Elson be under age; Is good; for by no law any person can have the benefite of the weakness of an Infants Deed but the Infant himself or his heirs, but no third person so that the Appell^{ts} can pretend no title or benefite in this Case

4 The Appellee Answereth that Joseph & Elson Harris had a good deed from their mother & was in possession of the house & land sneed for, long before their mother was married to Balbut under whois title the Appell^{ts} pretend to hold, And altho there was any misrecitall of the Codicill mentioned in the sd deed yet the same being only in the narrative thereof is not Material And the Appell^{ts} can have no benefite thereby &c. All which being duely Considered by the honorable Court & Gentl of the Jury The Appellee doubts not, but they will see Cause to Confirme the former Judgment and allow him Costs of Courts

JA MEINZIES." — *Ibid.*

The Judgment of the Court is recorded as follows:—

"Both Parties Appeared The Writ Judgment Reasons of Appeal & all things touching the same being fully heard the whole was Committed to the Jury who were Sworn to try the Same, & Returned their verdict therein upon Oath That is to say they find for the Appellee Confirmation of the former Judgment & Cost of Courts. Its therefore Considered

by the Court That the said James Mienzies Shall Recover of the s^d John Pitts & Sam^l Holland Cost of Courts Taken at .”—*Records of the Superior Court of Judicature, 1700-1714, fol. 183.*

Execution was issued August 24, 1706, under which Meinziez was finally put in possession of the estate.

Chap. 106. This chapter is from council records, vol. VIII., p. 185. It has not been found in the archives.

By chapter 53, *ante*, the hearing on the petition of Snsannah Amsden, which had been assigned to the second session by chapter 28, *ante*, was continued to the third session. The respondents, Isaac Amsden and others, it seems, appeared at that session and filed their answer (which is given in the note to resolves, 1706-7, chapter 106), and the hearing was again continued to the present session. By the order which constitutes this chapter the hearing was once more continued. On April 10, 1706, the selectmen of the town of Marlborough asked leave to withdraw their petition mentioned in the title to chapter 77, *ante*, upon which a hearing was ordered to be had this session.

For further action on the petitions of Abigail Watkins and Faith Waldo see note to chapter 53, 1706-7. The petition of Richard Carr, which, by chapter 76, *ante*, was ordered to be heard this session, appears not to have been acted upon until December 20, 1715.

Chap. 107. This chapter is from council records, vol. VIII., p. 185, and archives, vol. 71, p. 196.

The Samuel Butterfield named in this chapter is the same person who is mentioned in resolves, 1704-5, chapter 48, and note. His petition was as follows:—

“To his Excellency Joseph Dudley Esq^r Capt General and Governor in Chief and To the Hon^{ble} the Council and House of Representatives now in General Assembly convened at Boston within & for her Majesties Province of the Massachusetts Bay. April 10th 1706./—

The Humble Petition of Samuel Butterfield —

Sheweth.

That yo^r Petitioner is an Inhabitant of the Town of Chelmsford, and in the month of August 1704. when the Enemy came upon Nashoway & Groton &c yo^r Petitioner (with others) was sent out by the Capt Jerathmel Bowers to Groton to assist Col^l Taylor, where yo^r Petitioner being ordered out with some others to Guard a Man who was going to work in the field, the Enemy came upon them, kild, one man, and took yo^r Petitioner and one other Prisoners,, tho’ yo^r Petitioner made all the resistance possible, killed one, and knockt down two more after they had seized him, for which yo^r Petitioner was cruelly used by them afterwards & threatned to be burnt, several times. May it please this great and General Assembly. yo^r Petitioner was very well accounted in all respects when he was taken, and then was stript of all and was between fourteen and fifteen months a Captive exposd to great hardships, and has sustained great Loss and damage.

Yo^r Petitioner therefore humbly prays the favour of this great and General Assembly to take the premisses into yo^r serious Consideration, and Grant him such Recompence for his Losses and sufferings, as afores^d as to yo^r wisdom and Goodness shall seem meet.

and yo^r Petitioner (as in duty bound) shall ever pray &c.

SAMUEL BUTTERFIELD.”—*Mass.*

Archives, vol. 71, p. 195.

This petition was read in the House on the day of its date, and the resolve upon it passed and sent to the Council, for concurrence. On the next day it was concurred in, and consented to by the Governor.

The province treasurer’s account* shows that the allowance granted by this chapter was duly paid.

The following is Penhallow’s account of Butterfield’s preservation from death at the hands of his captors:—

“A third was Samuel Butterfield, who being sent to Groton as a soldier, was with others attacked as they were gathering in the harvest; his bravery was such, that he killed one and wounded another, but being overpowered by strength, was forced to submit; and it happened that the slain Indian was a sagamore, and of great dexterity in war, which caused matter of lamentation, and enraged them to such a degree that they vowed the utmost revenge; some were for whipping him to death, others for burning him alive; but differing in their sentiments, they submitted the issue to the Squaw Widow, concluding she would determine something very dreadful, but when the matter was opened, and the fact considered, her spirits were so moderate as to make no other reply than, *Fortune L’querre*. Upon which some were uneasy, to whom she answered, ‘if by killing him, you can bring my husband to life again, I beg you to study what death you please; but if not, let him be my servant;’ which he accordingly was, during his captivity, and had favor shewn him.”—*Indian Wars, p. 47.*

Chap. 108. This chapter is from council records, vol. VIII., p. 185. It has not been found in the archives.

The warrants for paying the whole sum found due to Commissary-General Belcher were issued upon the following orders, respectively:—

“Oct. 20, 1705. The Committee appointed by the Board to audit the accompts of Andrew Belcher Esq^r Commissary General made their Report upon the s^d accompts, vizt that they had examin^d the same and seen the several vouchers relating thereto, and find that the said Andrew Belcher Esq^r hath disburs^t for her Maj^{ty}’s service the sum of six thousand one hundred, fifty and four pounds, two shillings and five pence, including the former ballance, and that he hath received of the Treasurer &c Three thousand six hundred

eighty two pounds four shillings and two pence, and that on the tenth day of October current, there is due from the Province to the said Andrew Belcher Esq^r the sum of two thousand four hundred seventy one pounds, eighteen shillings and three pence.

Which Report was read, and the Council

Advised and Consented. That a Warrant be made out to the Treasurer to pay the said Andrew Belcher Esq^r the above sum of two thousand four hundred seventy one pounds, eighteen shillings and three pence the balance of his account, and to advance the sum of one thousand pounds more to him towards the further growing charge, He to account for the laying out thereof." — *Executive Records of the Council*, vol. 4, p. 227.

"April 17, 1706. Advised and Consented. That a Warrant be made out to Mr Treasurer to pay to Andrew Belcher Esq^r Commissary General the sum of five hundred fifty nine pounds, nineteen shillings and three pence, being part of two thousand fifty nine pounds, nineteen shillings and three pence, reported by the Committee on his Accounts to be due to him from the Province on the 30th of March past, and accepted by the General Assembly (he formerly having a warrant* for fifteen hundred pounds of the same) as also to advance to the s^d Commissary General the sum of six hundred pounds, towards the further growing charge, in all eleven hundred fifty nine pounds, 19. shillg & 3⁺ pence." — *Ibid.*, p. 278.

The province treasurer's account† shows that these amounts were paid. The date of the first warrant is given by the treasurer as the twenty-second of October.

Chap. 109. This chapter is from archives, vol. 71, p. 197. It is recorded in council records, vol. VIII., p. 186.

At the date § of the last purchase of gunpowder previous to the passage of the present chapter, Governor Dudley was still apprehensive of the designs of the enemy against the western frontiers. The correspondence between him and the Governor of Connecticut on this subject is given in the note to resolves, 1706-7, chapter 6. Notwithstanding the fact that Livingston's report upon his return from Canada had shown the groundlessness of the rumors of the assembling of a force of the enemy at Cowassic, the belief of the authorities of Massachusetts that the enemy were meditating an attack on the frontiers in considerable force was not overcome, nor their vigilance diminished, until late in the autumn, after Captain William Tyng had led a reconnoitring party a day's march beyond Pennecook, and thence to Lake Winnepesaukee, without finding, in their going and returning, any recent traces of the enemy, and Captain Lane and his company had returned from a similar expedition to Sebago Lake, seeing none of the enemy save two Indians at Black Point, on their return.¶

Dudley was so encouraged by the failure of the enemy to make any powerful demonstration during this year (which fact he attributed to the care he had taken to have the frontiers well defended) that he had gradually reduced the provincial forces until he felt safe in assuring the Legislature¶ that "ten thousand pounds of the last year's charges" had been saved on this account.

The French records and accounts of military proceedings in Canada at that time, now accessible, afford further explanation of the circumstances which led to the suspension of hostilities. Although Vaudrenil had been deterred from venturing a repetition of Beaumont's disastrous experience of the previous year he had not been idle. By his direction, a considerable number of French and Indians from Canada had been sent to join the force under Subercase in ravaging the English settlements on Newfoundland. This force, though much smaller than could have been prudently sent against New England, had done great damage, and their success had, in some measure, counteracted the spirit of disaffection among the savage allies of the French which the misfortunes of the previous year had engendered. There was, therefore, little reason to suppose that hostilities would not be renewed in case of the failure of the pending negotiations between Dudley and Vaudrenil** for a truce; and it was only a wise precaution to lay in sufficient ammunition to supply the frontier garrisons and the soldiers likely to be called into active service.

But there were other circumstances calling for an unusually large supply of gunpowder. Besides what would be required for the twenty new cannon — the gift of the queen — which had been landed at the Castle on the last of November,†† the recent tidings from the West Indies were ominous of new danger. As early as March 25, 1706, the News-Letter had published the report from Barbadoes of the departure ‡‡ of a powerful French fleet to attack St. Christopher, an account of which is given in the note to chapter 112, *post*. This fleet was believed to be under the command of Jean Baptiste Ducaesse, an intrepid officer of the French navy, the rumor, early in October, 1704, of whose expedition to Martinique had

* The following is this warrant for the £1500, which was not paid until after the passage of this chapter: —

"Feb. 22, 1705-6. Andrew Belcher Esq^r Commissary General Informing the Board, that he is Eleven hundred pounds in Advance for the supply of the Province, and that it's necessary there be a further disburse for Provisions &c.

Advised and Consented. That a Warrant be made out to the Treasurer to advance and pay to the s^d Commissary General the sum of fifteen hundred pounds, to enable him to serve the publick Occasions of the Govern^t For which he is to be accountable." — *Executive Records of the Council*, vol. 4, p. 266.

† Erroneously called sixpence, in the report.

‡ Mass. Archives, vol. 122, p. 252.

§ June 30, 1705; chapter 50, *ante*.

¶ Boston News-Letter, No. 79; and see note to resolves, 1706-7, chapter 4.

¶ In his speech October 24, 1705.

** Such, indeed, was the fact, as is shown in the notes to chapter 83, *ante*, and resolves, 1706-7, chapters 6 and 54.

†† Chapter 93, *ante*.

‡‡ The news of the arrival of this fleet at Martinique was published in the News-Letter of the eighteenth of February (No. 96).

greatly alarmed the merchants of Boston. The recent news was confirmed by reports* in subsequent issues of the same paper—one in April, of the progress of the fleet as far as Antigua, and another a week later, of the attack on Nevis and St. Christopher. These tidings, it would seem by the following extract from the Governor's speech † at the opening of the fourth session, were the chief inducements to his convening the Assembly:—

"Gentlemen—

At your Last recess I did not Intend to trouble you again until the ordinary season of your session, but we have lately had the advice of a french fleet in the west Indies of force enough to have Lookt this way & I thought it proper upon that head to have your advice what may be necessary for us to be in a readiness to prevent any Insult." — *Mass. Archives*, vol. 108, p. 41.

In continuing his speech the Governor thus referred to the subject of preparing for the defence of the frontiers:—

"It is also the time of year for the Increase of the forces in the frontiers which to save the Charge of the province during the Last four months I have retrenched to a Lower Number than at any time of this warr thereby to save the Charge of the province which I am sensible is very great

The Treasurer & m^r Commissary Generals accounts will shew you the present state of your affayres & what is wanting.

Gentlemen of the Representatives.

I am Glad to tell you that at all times I have found you very ready to supply the Necessities of the warr, I have had no difficulty either for men or money for the defence of the province which I have always truly represented to her Majesty, our Winter Marches have discouraged the Indians and our Treaty for the prisoners with the french has diverted their motions & thereby occasioned our quiet, & above all the favour of Almighty God has blest our Endeavours That the frontiers are at this time sensible of more ease & security Then in any past troubles with the french & Indians.

I shall acquaint you with the present state of the forces for the winter past & what addition I think necessary & shall not desire a long session at this time The busy season of the year demanding your being at home & your aniversary meeting being so near. . . ." — *Ibid.*

The following is the vote of advice for a warrant to the province treasurer in payment of the cost of the gunpowder procured according to the order which constitutes this chapter:—

"July 22, 1706. Advised and Consented. That a Warrant be made out to Mr Treasurer to pay the sum of two hundred & thirty punds to John Walley Esqre for twenty Barrels of Gun powder purchased of him by the Committee & order of the General Court at their Session in April past, for the use of the Provc^s." — *Executive Records of the Council*, vol. 4, p. 297.

See resolves, 1706-7, chapter 2, and note.

Chap. 110. This chapter is from archives, vol. 88, p. 345. It is recorded in council records, vol. VIII., p. 186.

During the third session this year John Campbell, the postmaster, presented the following petition:—

"To His Excellency Joseph Dndleŷ Esq^t Cap^t General and Governour in Chief In and over Her Majesties Province of the Massachussets-Bay In New-England &c. And to the Hon^{ble} Her Majesties Council, And the House of Representatives Convened in General Assembly at Boston the 30th day of May 1705. And Continued by prorogation unto the fifth day of September

The Humble Petition of John Campbell Post-Master of New-England. Sheweth.

That Whereas yor^e Petitioner has had a yearlie allowance from this Government; † the better to enable him to discharge his Trust in the Manadgment of the Post-Office, and Taking Due care of the Publick Letters, which saves this Colony considerably in a year; seeing that the Incomes by the said office are not yet able to allow him a Competent salary for the same; And that yor^e Petitioner was entt short of his Acco^t Last year Ten pounds most of it being for sending Expresses which formerly was allowed him, besides what allowance was granted him for the Discharge of His office.

Your Petitioner also having Last year sett on foot, a weekly Letter of Intelligence for both foreign and Domestick occurrences, expecting that the Incomes thereby being sett at a Moderate Rate, would be sufficient to defray the Necessary Charge thereof; The which

* The following entry in Sewall's Diary gives some idea of the alarm these tidings caused at Boston:—

"Apr. 4, 1706. Last night I dream'd I saw a vast number of French coming towards us, for multitude and Huddle like a great Flock of Sheep. It put me into a great Consternation, and made me think of Hiding in some Thicket. The Impression remain'd upon me after my Waking. GOD defend!" — *Vol. II.*, p. 157.

† April 10, 1706.

‡ From and after May 3, 1705, the general assembly of New Hampshire contributed on the average as often as once a year for several years an allowance of six pounds to Campbell for his service as postmaster. On July 2, 1703, a joint committee was appointed to consider Campbell's petition "for an encouragement of maintaining the post-office betwixt Boston and" Portsmouth. On February 11, 1703-4, apparently upon the recommendation of this committee, Campbell's account as "postmaster-general," amounting to £21 4s., "for his trouble and charges in sending forward his Excellency's letters, to Roxbury at all hours and seasons in the night, and for sending to and from Piscataqua extraordinary expresses," was cut down to fourteen pounds. This amount was ordered to be paid to him, in full of his account, by the treasurer, out of the next province rate.

it did not do, And this year several Gentlemen, Merchants and others being willing it should not drop, but be continued, have Agreed to contribute towards its support for an other year: yet Notwithstanding there are not a Competent number that offers to carry it on, And It being found beneficial & of Publick use and service to the Countreÿ to prevent a great many false Reports.

Your Petitioner Therefore Most Humbly Prays.

That yor Excellency, And this Great and General Assembly will be Pleased to take the Premises Into your Most Mature and wise Consideration; and Grant your Petitioner That which he was cutt short of his Acco^t Last year, As also such allowance and Encouragement for the year past, in the discharge of both Posts, The Post office, and Letter of Intelligence, And what allowance and Encouragment yor Excellency and Honours in wisdom thinks fitt in proceeding on the same for the future, Whereby yor Petitioner may be Enabled to discharge both Trusts.

And yor Petitioner as in Duty bound shall euer Praÿ, being Allways;

Your Excellency's And Honours most Humble,
most Obedient, and Faithfull Servant J^{no}: CAMPBELL

[In May Court. 1703. Grantd £.10 for the time past £.20. for the year ensuing
An account of Expresses & Posts &c £36.9.0. to 29th August 1704. past]. — *Mass. Archives*, vol. 88, p. 344.

This petition was read in Council on the twenty-third of November. On the twenty-seventh it was read in the House and again on the thirtieth, when it was "referred to next session," Secretary Addington meanwhile endorsing upon it the memoranda * in brackets appended to the petition, as above.

In the fourth session Campbell presented another petition, as follows:—

"To His Excellency Joseph Dudley Esqr Capt General and Governour in Chief in and over Her Majesty's Province of the Massachussets-Bay In New-England &c, And to the Hon^{ble} Her Majesty's Council, and the House of Representatives convened in General Assembly, and now sitting in Boston the 10th Day of April 1706.

The Humble Petition of John Campbell Post Master of New-England.

Sheweth

That Whereas it has been usual for yor Petitioner to have an Annual Allowance from this Province, the better to enable him, to a faithfull discharge of his Office, in which he has now served three years and an halfe, and has only had one year and an halfe's allowance as yet granted him, And That your Petitioner has already his Petition lying before yor Excell. and General Assembly relateing thereto, and promotting the printing of the weekly Intelligence.

Your Petitioner Therefore Most Humbly Prays.

That yor Excellency and This Great and General Assembly will be pleased to take the same into your Most Mature and wise Consideration.

And your Petitioner as in Duty bound shall ever Praÿ being always.

Your Excellency's and Hono^{rs}. Most Humble,
Obedient and faithfull Serv^t J^{no}: CAMPBELL." — *Ibid.*,

p. 345.

This petition was read in the House on the eleventh, and on the twelfth the resolve which constitutes this chapter was passed, and other proceedings ensued, as shown in the printed chapter, the Governor signifying his consent.

The province treasurer's account † shows that the amount granted by this chapter was duly paid.

The following items from the Boston News-Letter give an idea of the frequency and regularity of the mail service as then established between Piscataqua, and the western and southern colonies, and Boston:—

"The *Eastern* and *Piscataqua* Post sets out from *Boston* every *Monday* night at seven of the Clock, and all Persons are desired to bring their Letters to the Post-Office before six a Clock.

The *Western* Post not yet come in." — No. 31. November 13 to 20, 1704.

"The *Western* Post for three Months to the 1st of *March* next goes out and comes in once a Fortnight, at *Boston*; he came in on *Friday* last, the first Currant, & sets out on *Tuesday* morning, the 5th instant, and so comes in every other *Saturday* at noon, and sets out the *Tuesday* morning following at ten of the Clock.

The *Eastern* Post comes in every *Saturday*, and sets out every *Monday* night, at seven of the Clock." — No. 33. November 27 to December 4, 1704.

"There are two Mails due from the *Eastern* Post, and one from the *Western*, by reason of the great Snows." — No. 41. January 22 to 29, 1704-5.

"The *Eastern* Post came in on *Saturday* and sets out on *Monday* night, who says, There is no Travailing with Horses, especially beyond *Newbury*, but with Snow Shoes, which our People do much use now, that never did before. The *Western* Post came then also in, and sets out on *Tuesday* Morning, who likewise says, 'Tis very bad Travailing." — No. 42. January 29 to February 5, 1704-5.

* The former memorandum refers to the allowances granted in resolves, 1703-4, chapter 30, the latter to the payment made on the warrant advised in the following order in Council:—

"Sept. 21, 1704. An Account of Mt. John Campbell, Post Master, for expresses to several parts out of the Post days, and some out of the Post Road from the 17th of August 1703. to the 29th of Aug: 1704 and for sending out the publick Letters, was presented—&

Advised and Consented. That a Warrant be made out to the Treasurer to pay the s^d Mt Campbell the sum of Thirty six pounds, nine shillings in full of his s^d Account." — *Executive Records of the Council*, vol. 4, p. 78.

The entry in the province treasurer's account of the payment of the warrant is in *Mass. Archives*, vol. 122, p. 234.

† *Mass. Archives*, vol. 122, p. 260.

"There is one Mail due from the Eastern Post; and the Western Post comes not in till Saturday next." — No. 43. February 5 to 12, 1704-5.

"The Eastern Post came in on Tuesday last, and went out on Wednesday night, to return on Friday or Saturday next, & to keep his usual times of going out and coming in."

"The Western Post not yet come in." — No. 44. February 12 to 19, 1704-5.

"The Western Post came in on Tuesday, & went out on Thursday last, in order to be in again on Saturday the 3d of March next. The Eastern Post came also in on Saturday last & set out Monday night at 7 a Clock, so to keep his due course in going out & coming in." — No. 45. February 19 to 26, 1704-5.

"This is to give Notice, That whereas the Southern Post from Boston to Rhode-Island, for the Three Winter Months of December, January and February, went & came once a Fortnight, as the Western Post to New-York still does; That for the better Advantage of Commerce and Trade, The said Southern Post goes out and returns in said Months once every Week, viz. He sets out from Boston every Monday at Six a Clock in the afternoon, and returns every Saturday: And every other Monday of the aforesaid Months, the Southern Post carries with him the Western Mail for Connecticut and New-York."

And in regard the days are short and bad Travelling in said Months, These are also to give Notice, That the Eastern Post from Boston to Piscataqua, sets out every Monday's night at 7 a Clock and returns every Saturday. And all Persons are to bring their Letters to the Post-Office for the Southern and Western Post at Five a Clock in the afternoon; and for the Eastern Post at Six a Clock, and not to exceed." — No. 84. November 19 to 26, 1705.

"This is to give Notice, That whereas the Southern Post Sets out on Monday the 24th. at Six a Clock at Night: The Southern Post goes out and comes in every Week, and the Western once a Fortnight." — No. 88. December 17 to 24, 1705.

"All the Posts came in on Saturday, and sets out again on Monday the 7th Current, at 6 & 7 at night: The Eastern and Southern to go and come once a week, and the Western Post once a fortnight." — No. 90. December 31, 1705, to January 7, 1705-6.

"This is to give Notice, That the Western Post, to Connecticut, New-York and Philadelphia Sets out on Monday the 4th Current, at 3 a Clock in the Afternoon, to return on Saturday next; and so to continue for once a week till December; he also carries with him the Southern Mail for Rhode-Island." — No. 98. February 25 to March 4, 1705-6.

The following schedules of lengths of stay of post packets and the rates of postage between England and her West-India colonies were published in the News-Letter of October 22, 1705:—

"These are to give notice, That Her Majesty in regard to the great Expence She is at in maintaining the Correspondence by Letters between England and Her Plantation-Islands in America, and for the further improvement and benefit of Trade; Hath Settled Packet-Boats for the West-Indies, who are to go from Plymouth at the beginning of every Month throughout the Year, no accident preventing the same; who are to touch and stay at each of the English Island-Plantations in the following manner: Viz.

							Days & Nights		hours
Being ar- rived at	Barbadoes, to stay no longer than	.	.	.	.	.	3		
	Antigua	.	.	.	.	.	2		
	Montserrat	.	.	.	.	.			36
	Nevis	.	.	.	.	.			36
	St. Christophers	.	.	.	.	.			36
	Jamaica	.	.	.	.	.	10		

And thence to Return to England, and not to be stayed or delayed on any pretence whatsoever.

And Her Majesty in pursuance to the Statute made in the Twelfth Year of his late Majesty, King Charles II. for Establishing a Post Office, has Directed and Impowred Sir Robert Cotton Knight, and Sir Thomas Franckland Baronet, Her Majesty's Post-Master General of England and the Plantations, &c. to receive and take the Post of all Letters & Packets that shall be conveyed by the Post lately Established between the Post Office General in London, and the above-said Islands, according to the Rates following.

		s.	d.	
From England to the				
West-Indies each	One Sheet	1	3	} And in proportion to the same Rates for every Packet of Letters.
Letter not exceeding	Two Sheets	2	6	
From the Islands to				
England, each	One Sheet	1	6	} And in like proportion for every Packet of Letters.
Letter not exceeding	Two Sheets	3	0	
For every Packet of any kind of greater Bulk for every	Ounce	6		

This is likewise to give Notice, That the Deputy Post Masters are appointed at each Island, to attend and regulate all matters concerning Letters and Packets, and to Correspond with the General Post Office in London about the same: And forasmuch as every Vessel hath performed her Voyage in the space of 150^d days, or thereabouts. All persons Corresponding with New England, New-York, Jersey, Pensilvania, Maryland, Virginia, Carolina, and Bermuda, may have their Letters to the Respective Governments put up in Bags apart, in the method they are now sent to each Island; And the Deputy Post-Master of each Island hath Orders, where the next and most immediate conveyance is to be had, to send them to the Main of America, as hath hitherto been the practice for Conveying Letters from Barbadoes to Bermuda by Sloops, and other Embarkations, daily Trading between the said Islands and the Continent. By which means Returns may be as constantly made from the Continent to the said Post-Masters, and by them transmitted to England by the Packets in their Monthly Courses, whereunto their Orders oblige them, without any further Charge there than what is to be paid at the General Post Office in London, (only the Inland Passage on the Main excepted) according to the above Rates.

* This should be one hundred days: see extract from News-Letter, No. 111, on p. 623, *post*.

These are also to give Notice, That Letters will be taken in at the General Post-Office in London, directed for New-England, New-York, New-Jersey, Pennsylvania, Maryland, Virginia, Carolina, on the Continent of America, and the Island of Bermuda, on the same Post nights as those for the Plantation-Islands, with particular directions for those for the Continent, to be forwarded by the first opportunity."—No. 79.

Chap. 111. This chapter is from council records, vol. VIII., p. 186. It is preserved in archives, vol. 101, p. 308.

On the sixteenth of February the General Court was prorogued to the tenth of April by proclamation. In the mean time the Governor called the attention of the Council to the state of the province treasury and the need of a supply, as follows:—

"March 28, 1706. His Excellency acquainted the Council of the present demand of money, for fitting out of the Province Galley, for the purchasing of Provisions for the Garrisons at Casco and Saco Forts, and the Forces in the late Province of Mayu &c., and that there is not money in the Treasury to make that supply, or for other emergency's.

And therefore it is necessary the General Assembly should sit on the tenth of April next according to the Prorogation, and make a further grant, unless any other expedient could be Advised."—*Executive Records of the Council*, vol. 4, p. 269.

The resolve which constitutes this chapter originated in the House April 11, 1706, and was sent to the Council, for concurrence. On the next day it was concurred in, and consented to by the Governor.

See chapter 96, *ante*, and note.

Chap. 112. This chapter is from archives, vol. 2, p. 651.

This order having originated in the House of Representatives, and having received the approval of the Council and the Governor, lacks no requisite of a complete legislative act. The following account of the cause and nature of the distress, to assist in relieving which it was passed, is thus given by Captain Thomas Sonthey in his *Chronological History of the West Indies*, under the year 1706:—

"A French fleet, of five sail of the line, and twenty smaller vessels, in March, made a descent in St. Christopher's: they were repulsed in their attack upon the fort, but they burnt the plantations and plundered the inhabitants. Information being given them that an English fleet was expected, they quitted the island, carrying off 300 slaves, and went to Nevis, where the inhabitants, upon their landing, fled to the mountains, and were pursued by the soldiers. After an unsuccessful resistance, they capitulated the next day, March 24th. By the capitulation the inhabitants were to be prisoners of war, but to remain on the island, and to procure a like number of French prisoners, to be released by way of exchange.

The French broke the capitulation in several respects, treated the inhabitants most barbarously, and forced them to a second agreement upon the 6th of April, by which the English were in six months to send to Martinico a certain number of Negroes, or money in lieu of them. The French carried off with them between 3000 and 4000 slaves. £103,000 was voted by the English parliament* to relieve the sufferers."—*Vol. II., p. 199.*

The early reports† of these ravages of the French in the English West Indies did not indicate a purpose of the enemy to extend the field of hostilities to the English colonies on the Continent. Indeed, as late as the sixth‡ of May, the hostile expedition was de-

* By stat. 9 Anne, chap. 23, § 88, there was appropriated, from the two million pounds sterling therein authorized to be raised by lottery, £103,003 11s. 4d. to be distributed amongst such proprietors of plantations in the Islands of Nevis and St. Christopher, sufferers by this invasion, as had resettled or should resettle in those Islands, in proportion to their losses, by debentures, to be issued by the commissioners for trade, at six per cent interest. By subsequent acts in the fifth and eighth years of Geo. I., the distribution of this aid was further regulated, and finally funded in a three per cent security by the government.

† See note to chapter 109, *ante*. The last of these reports there referred to (in the News-Letter of April 8) is given below in full:—

"Rhode-Island, April 5. This day arrived here Benj Cranston 6 weeks passage from Suranam, who sprung his Mast, & was forced to St. Christophers, where he arrived 7 days after the French Fleet had left it; They consisted of 4 Men of War, some of them 70 Gun Ships, and 28 Sail of Privateers, the Enemy Landed 3000 men; there was but 500 English to resist them; who did the best they could, and their Forts; but sent several Parties out, who kill'd several of the Enemy, and the English lost but one man; the Enemy stayed there 4 days, who took the whole place, except the Forts, which they never Attacked: They did all the Damage they could, by burning the Towns, Mills and Canes, kill'd Horse and Cattle, and carried away several Negroes. Before the Enemy went to St Christophers, they lay two days at Nevis Battering there, but durst not Land; they never Attacked Antigua, only came in sight of it, and so went by Montserrat to St. Christophers. The Privateers quarrelled with the Men of War, because they did not Batter the Forts: It is supposed that the Enemy design next for Curacao. They daily expect from England a Fleet of 13 Sail at the Leeward Islands to Attack Martinico."—*No. 103.*

‡ The following is part of a communication from Boston in the News-Letter of that date:—

"The reason of the Frenches Effort thus, is said to be, That the French King at the beginning of this War borrowed a considerable Sum from *New-Spain*, with Engagement in 5 years to furnish them with 50000 Negroes for their Mines, which time of Contract being out, and his necessity requiring another Borrow; The *Spaniards* were Crusty, and would not Lend till the first agreement was answered; so he thought an Attack on these Islands to be the readiest way to accomplish his bargain, and designs, which hitherto in great measure has been frustrated; for in their coming out of Brest 8 of said Ships were lost by Storm, some put back again disabled, others of some Privateers, who attempted in the Latter end of *January*, and *beginning* of *February* last to Land at *Antigua* and *Nevis*, the Wind blowing hard and contrary hindered their Attack: Our Forts at *Nevis*, Maul'd their Ships, and kill'd their Vice Admiral. The Enemy went then for *St. Christophers*, where they Landed 1600 Regular men from France, and as many Privateers, where they burnt and destroyed the greatest part of their Crop, Houses and Mills, &c. but could not take the Forts: And the Enemy hearing of a Supply going from hence to the Assistance of those Islands, The Enemy in a Confusion left the place, and returned to *Martinico*."—*No. 107.*

scribed as being under the command of Dncasse, and sent forth to punish the Spaniards of Mexico for resenting the bad faith of the king of France. The menace to the Continental English colonies, though not wholly disregarded, was thought too remote to require active measures of defence on a large scale.

In his speech at the beginning of this session (April 10, 1706) Governor Dudley commended to the consideration of the Legislature the suffering of the inhabitants of the sister colony, as follows:—

"There is one other affayr which I am extreemly Vrged in my own Mind to offer to you, which is on the Consideration of the present distress of saint Christophers, who by the ravage of the Enemy are burnd & their stock & provision destroyed & the Inhabitants in the Last distress for subsistence, if this assembly so opportunely mett not withstanding our own Great distress sufferings & Debt upon us, should think we owe them a Charity if it were but one Load of provision to be given to the poor, I am humbly of opinion it woud be acceptable to god and Honourable to the English nation, & speak for us in time to Come as the Like action has done for our fathers in the Relief of the Bahamas about fifty years past, you will pardon me this proceeds from a true affection and Honour to your selves and the province in General."—*Mass. Archives, vol. 108, p. 42.*

In response to the Governor's appeal, the House, on the eleventh, passed the order which constitutes this chapter, and it appears to have been read in Council on the same day. That it was concurred in is inferred from the fact that (on the seventeenth) the Council passed the following:—

"Ordered. That a Briefe be issued forth for a Collection of charity to releive her Majty's subjects of the Island of St Christophers lately Insulted and Ravaged by the French. And a Briefe was accordingly drawn up, and Samuel Sewall Esqr and Andrew Belcher Esqr appointed to be the Receivers of the sd Collection and to invest it in Provision &c to be forwarded by Direction from the Board.

J: DUDLEY."—*Executive Records of the Council, vol. 4, p. 278.*

In conformity to the above vote the following brief* was promulgated:—

"Province of the Massachnsetts Bay. —. By his Excellency the Govt
A Briefe.

Whereas the Island of St Christopher's, some few weekes since, has been Insulted and ravaged by the French, And Her Maty's good subjects of that Island reduced to the last Extremity, by the spoyles the Enemy has made in burning of their Houses & mills, destroying and carrying off their stocks and Estate; so that they are left destitute both of Habitation and subsistence, most haveing lost every thing they had.

I have therefore, at the Desire of the Representatives in their late session, and with the Advice of Her Maty's Council, Issued forth this Briefe; Hereby Recommending to the Consideration and Pity of all Charitable well disposed Christians, within this Province and the Province of New-Hampshire, the deplorable circumstances, and distressing wants of their sd Christian Bretheren and Fellow subjects; And Exciteing them to put on bowels of Christian Compassion and Charity for the Reliefe of the pinching necessities of their distressed Friends & Countrymen.

Which will be very acceptable to God, profitable for our selves and be remembered with the like grateful Acknowledgemt and Respect from this Island, as formerly.

The Money that shall be contributed & collected for this pious use, to be put into the hands of Samuel Sewall Esqr & Andrew Belcher Esqr by them to be Invested in provisions &c and forthwith forwarded by the Direction of my selfe and the Council. —.

And the ministers of the severall Towns are Directed to read & publish this in their Congregations; And to stir up their People, notwithstanding their deep poverty, to a cheerrul & liberal Contribution to this good worke. —

Given at the Council Chamber in Boston the 17th day of April. 1706. In the Fifth year of the Reign of our Sovereign Lady Queen Anne.

By order of the Govt & Council.

J DUDLEY

IS^t ADDINGTON Secry."—*Mass. Archives, vol. 2, p. 652.*

The result of this appeal to the benevolence of the people and the manner in which the collections were forwarded are shown in the following entries in the executive records of the council:—

"May 20, 1706. Ordered. That Samuel Sewall Esqr & Andrew Belcher Esqr who are entrusted with the Charity lately collected for the Reliefe of her Majty's subjects of the Island of St Christophers ravaged by the French, be directed and Impowred to Treat and provide for the speedy transportation thereof, and Report the same, when further direction will be given by the Board for Distribution of the said Charity.

J: DUDLEY."—*Vol. 4,*

p. 286.

A further account appeared in the next number of the News-Letter, as follows:—

"Boston, On the 5th Currant arrived here a Sloop from St. Thomas, Daniel Wyborn Master, 18 days passage; And by Passengers on board her that made their escape from Nevis, We are acquainted, That a French Fleet consisting of 12 Capital Ships, and 40 other Vessels on the 22d of March last, did Attack said Island, where the Enemy Landed 6000 Men, who had over-run the Island, and carried away all that was Valuable; only they left the Inhabitants with their Houses Standing: There was severall of the Enemy killed by the Negroes. The Enemy stayed there upward of 20 days. Several Vessels belonging to New-England, and other Places being Imbargo'd there, were taken by the French."—*No. 108.*

* It was printed in the News-Letter, No. 105 (April 15 to 22, 1706), and from the following entry in Sewall's Diary it is to be inferred that it was read from the Old South pulpit on the twenty-eighth:—

"Lords-Day, April, 28. Brief is Read."—*Vol. II, p. 100.* See, also, p. 94 * in the same volume for a copy of the brief.

"July 18, 1706. Samnel Sewall, and Andrew Belcher Esq^r Stewards of the Charity collected for the relief of the Inhabitants of St. Christophers, ravaged by the Enemy, acquainting the Board that they had invested about one halfe of the said Collection in Provision &c^a and shipt the same on the Sloop Hawke, Daniel Wyburne* Commander.

The Council do approve thereof and advise it be addressed to the Governour, to be distributed to the most necessitous, by the advice of her Majesty's Council on the place.

And direct that the sd Stewards do forward the remainder by the next good opportunity, & address the same accordingly, as above. J: DUDLEY." — *Ibid.*, p. 293.

One of several letters of which, apparently, Cotton Mather was the author, printed, under the title of "The Deplorable State of New England", in the introduction to the second volume of Sewall's Diary, refers, under date of October 2, 1706, to this act of charity, as follows:—

"Sir

I may inform you of one Action lately done among us, which I know you will be pleased withal. Upon the advice of the extreame Distress whereto the French Invasion had brought *St. Christophers* and *Neris*, the People of *New-England*, in a most Christian manner expressed their Charity towards those, who perhaps would have hardly done the like for them, on a like Occasion. We made a Collection for the Relief of their Necessities, the Collection was, as I am told, between 7 and 800 *l.* in this Collection, there were two Churches in *Boston*, the *South* and the *North*, one gave somewhat above a 100 *l.* the other gave a little under it. Certainly, a Country so ready to serve Her Majesty, and to help their fellow Subjects, ought to have a room in the Thoughts of all good Men in the *English Nation*." — P. 42*.

Hutchinson thus summarizes the results of the brief:—

"[1706.] A small sum (£.600) was collected in the churches this year and sent for the relief of such of the poor inhabitants of St. Christophers as had been distressed by the enemy." — *Hist. of Mass.*, ed. 1767, vol. 2, p. 163, note.

See, further, Sewall's letter to Governor Nicholson in his Letter-Book, vol. II., p. 21.

1706-7.

Chap. 2. This chapter is from archives, vol. 71, p. 218, and council records, vol. VIII., p. 194.

The passage of the resolve which constitutes this chapter followed the presentation of an account, which had been taken by order of the Council, of the stock of powder in the province available for public use, which, with the purchases authorized by the Legislature of the preceding year, was insufficient for the supply of the forts and garrisons on the frontiers, for vessels of war, and for soldiers likely to be called into service in view of the impending hostilities on the seaboard.

In the note to resolves, 1705-6, chapters 109 and 112, some account of the ravages of a French fleet upon the English West-India islands is given, and it is there shown that Governor Dudley was induced, through apprehension of a possible demonstration by the enemy against New England, by sea, to convene the Assembly in a fourth session, in order to obtain their advice as to what measures should be taken "to prevent any insult." The only legislative actions that followed in response to this part of the Governor's speech were the resolves, chapter 109, for the purchase of twenty barrels of gunpowder, and chapter 111, for a supply of the treasury for the defence of the province, etc.

The Assembly was dissolved April 12, 1706; and within one month thereafter not only further particulars in regard to the movements of the French fleet had been published in the newspaper † but it had transpired that the fleet was under Ducasse, as had been

* [Antigua, Oct. 3.] "Mr. Wyborne is arrived at St. Christophers with the Charitable Benevolence of the People of the *Massachusetts*-Province for the Relief of the Distressed Inhabitants of that Island, being a great favour (and as I am inform'd by Col. Crisp one of the Gentlemen of St. Christophers who is now here) is accepted and resented by them as such. *Tobias Green* of *Boston* who was bound thence to *Barbadoes* is at *Neris*. Mr. Welch arrived here the 21st of last Month, having lost all his Horses in bad Weather." — *Boston News-Letter*, No. 134. November 4 to 11, 1706.

† The News-Letter of April 15, 1706, contained the following:—

"*St. Christopher*, March 8. Having had Intelligence of a French Fleet designing to attack some of the Leward Islands, 13 Sail of Vessels appearing in sight of *Antigua* the 20th of January last, caused an Alarm, but the next day 30 Sail appearing, gave assurance 'twas the French, and by their actions were designed to Land on that Island; two Sloops were sent out to discover the strength and designs of the Enemy, one of which exchanged several Shot with one of the French Privateers, most of the small Vessels came within a League of *Five-Island* Harbour, and some within the outwardmost Island, the Wind blowing strong Northerly, the great Ships could not come to Windward; in this posture they lay till the 3d day at noon, during which time the Commander in Chief (Col. John Johnson) had in Arms about 1000 of the Inhabitants, 2 Companies of the Queen's Soldiers, about 300 Marines, & 250 Negroes, in all about 2000 men, with which he designed to meet the Enemy at Landing: The *Greyhound* Man of War lay then on the Carreen, and her Guns ashore, and the Captain brought his men ashore to join the Forces there.

The Wind still blowing very hard, about noon the 3d day the Enemy's Commodore fired a Gun, & their whole Fleet went before the Wind to *Neris*, where they arrived the 5th of February, & presumed to Land, but the Wind blowing hard caused a great Sea, which hindered their designs, the English lying in their Trenches ready to receive them in case of their Landing, sundry shot from the Fleet were sent on shore, some of which 24 Pounders; they Landed in the night a French man and a Negro, who were to burn the Canes, thinking we should leave our Trenches to extinguish the Fire, that they might have an opportunity to Land without any repulse, and accordingly they burnt about 80 Acres of Canes, but our men would not hazard the loss of the Island by deserting the Trenches for any sinister end: a small party was detached to look for the two men aforesaid, which were both found, and after Examination and Tryal were hang'd.

reported; but that that officer and his squadron had been captured in the channel by an English fleet and he carried to Bristol as a prisoner. A week later the news arrived that the fleet which had done so much damage to the English settlement in the West Indies was commanded by the *Sieur d'Iberville*,* and that his men had divulged his purpose to attack New York after he had made a descent upon Jamaica.

Throughout the English colonies d'Iberville had justly acquired a reputation for indomitable courage and energy. His military and naval enterprises against the English had invariably been successful. He it was who captured the Newport Galley in 1696, and it was to him that Pasco Chubb soon after surrendered the fort at Pemaquid, rebuilt by Sir William Phips and generally believed to be impregnable. In 1701, unknown to the English, he had devised a plan for the conquest of Boston, which, in view of the defenceless condition of the town, at that time, against an attack by land, and of d'Iberville's unbounded influence in Canada, his control of the Indians, and his and their familiarity with the routes between Massachusetts and Montreal, seems hardly possible to have proved a failure. Though this scheme was abandoned through the opposition of the French ministry, he had previously completed the necessary soundings and surveys † of the approaches to New York, in contemplation of extending his conquest to that city.

The prospect of a visitation by a strong fleet under such a commander caused great alarm in New York. The News-Letters of May 27 and June 3, 1706, — the former containing the report of the determination of the enemy to proceed against New York, contained also an account of the enthusiastic action of the citizens in providing for defence by voluntary contributions of money in advance of the meeting of the Assembly. Gun-carriages for mounting cannon were promptly made, "Stockadoes and Plank brought to Town, for the making of Platforms, Breast-works, &c.," ‡ while the people supplied themselves with arms and ammunition, and cheerfully took part in the labor of fortifying the city. By the third of June two hundred men were daily employed on the fortifications, besides "a great number" engaged in cutting and hauling "Timber . . . for making of Batteries, Platforms, &c.;" and there were already half completed stockadoes and a "Breast-work, with several Block-Houses at convenient places," extending across the city from the East River to the Hudson. At the same time another breastwork "all along Hudsons River, and several Batteries . . . fronting the Harbour" were preparing "there being Carriages ready for Mounting 40 or 50 heavy Cannon, & more making." § Retreats in the country were provided for the women and children, and it was estimated that four thousand men, well armed, could be mustered in the city within twenty-four hours. In the same paper it was announced that a body of soldiers from England was daily expected in a vessel bound to New York under convoy of her majesty's ships the *Greenwich* and *Hazardous*. This was the condition of affairs in New York, which induced Cornbury, the governor, to request Redknap, her majesty's engineer, to leave his work on the Castle in Boston and "to repair into that province," as shown in the note to resolves, 1705-6, chapter 93.

Massachusetts, though not so demonstrative, was equally diligent in preparing for attack both by sea and land. The executive records of the council are missing from April 29 to May 20, 1706, and after the latter date until the sixth of June, so that the details of defensive operations during those intervals cannot be fully ascertained. They show, however, that the military companies in the towns adjoining Boston were detailed for duty at the Castle, || that the Governor was busy in reviewing the militia, ¶ and that

The Enemy finding it impossible for them to Land at *Neris*, they went for *St. Christophers*, where they arrived the 10th of *February* at night, and Landed at three several places of the Island, and ranged from end to end, most of the Houses, Canes and Mills on the South-side were burnt, the North-side escaped, all but 5 or 6 Plantations ruined. The Enemy carried away some Negroes, the Loss sustained is considerable; our two Garrisons of *Charles Fort*, and *Brimstone-Hill* were never attacked.

The General being in *Antigua* sent several Expresses to *Barbadoes* for Assistance; accordingly two Men of War came down to our relief, the *French* having notice of it on the 16th by an Express from *Martinico*, and supposing greater strength would follow, went away in great confusion. The Enemy's strength consisted of three 66 Gun Ships, 1 of 60, 1 of 58, 1 of 36, and 1 of 24 Guns, 4 Briganteens, and 21 Sloops, and near 3500 Men. From *St. Christophers* the 6 Men of War went for *Tobago*, and the rest for *Guadaloupe*. During these Alarms our Flag of Truce for Exchange of Prisoners was detained at *Martinico*, who gave an Account at her arrival in *Antigua*, that a Sloop from *France* to *Martinico* arrived some time before they Sailed, who said, that 8 Sail of Men of War Sailed from *Bred* two days before him, who were daily expected, and that their design was if possible, to take all the *English* Islands in the *West-Indies*.

The last Packet gave us an Account of *Admiral Wishart's* designing to stop at these Islands with 15 Sail of *English* and *Dutch* Men of War from *England* in their way to *Jamaica*, of whose arrival we are much desirous, being at present under seeming dangerous Circumstances. An Embargo hath continued since the 29th of *January*, and Masters and men in case of any Alarm are to leave their Vessels, and join the Land Forces, Strangers to be fitted with Arms and Ammunition by the Publick, and to have 18*d.* per day during their Service, and in case of loss of any Limb, to have *Eighteen Pound 15*s.* per Annum* during Life." — No. 104.

* Pierre Le Moyne.

† This was effected in from four to six weeks, during which time, by the supineness of Lieutenant-Governor Nanfan, he was suffered to continue the work.

‡ No. 110.

§ No. 111.

|| "April 29, 1706. His Excellency acquainting the Council, that he had ordered two Military Company's of the next adjacent Towns to Muster at her Majesty's Castle William, one day at a time monthly dureling the summer to Traine them up for service there, in case of any Attack, that they may know their posts and duty and be exercised therein.

Ordered. That they be allowed six pence $\frac{1}{2}$ man subsistence for the said Muster, the Officer upon the place to subsist them accordingly.

Executive Records of the Council, vol. 4, p. 283.

J: DUDLEY." — *Exec-*

¶ "I have lately review'd the several Regiments upon the Sea Coasts & put them into the best Readiness for a March to the Assistance of any oppress'd Part, And by the Advice of her Majesties Council have doubled the Garrison at the Castle & laid in Provisions & Stores there." — *Gov. Dudley's speech to the Assembly*, May 30, 1706; *Council Records*, vol. VIII., p. 190.

the frontier garrisons were inspected* by competent military officers under proper escort.

Although the work of mounting the great cannon which the queen had sent for use at the Castle was not completed until some months later,† a fair supply of serviceable artillery at the island was already furnished in the fifty old guns which had been formerly used on the breastworks. Undoubtedly it was during this time that the Governor and Council ‡ took measures to ascertain the amount of powder in private hands, the account of which was transmitted to the representatives by the following order:—

“May 31, 1706. An Account taken by Order of the Board of Powder belonging to Merchants, & other private Persons, was sent in to the Representatives, by John Walley, & Penn Townsend Esqrs with a Message to Acquaint the House of the Lowness of the publick Stores, & to desire them to have the present Consideration what Quantity thereof they see meet to purchase, that the Remainder may be at Liberty, there being a great Demand of Powder from New York, & also in the Parts within this Province.” — *Council Records, vol. VIII., p. 192.*

No further action upon the subject-matter of the above message has been found until the passage of the present resolve.

The following extracts from the executive records of the council and from the account of the province treasurer seem to show the whole amount of powder purchased by the committee named in this chapter, together with the sum paid therefor:—

“Aug. 12, 1706. The Committee of the General Assembly appointed to buy a Quantity of Gun powder for the use of the Province, reported they had bought the quantity of Fifty six barrels and thirty eight pounds of John Walley, Eliakim Hutchinson, Andrew Belcher Esqr Mr George and others.

Ordered. That the sd Powder be reduced to one hundred weight the barrel, according to the English Custom, & that it be paid for after the rate set by the General Assembly, vizt 11£. 10s — p barrel.

And that Warrts be made out upon the Treasury for payment to the respective persons accordingly. J: DUDLEY.” — *Vol. 4, p. 306.*

“Paid Several persons for Seventy One barrels & 38 lb § of Gunn Powder purchased by y^e Coniittee according by y^e General Court. . . . 826, 12, 4.” — *Mass. Archives, vol. 122, p. 280.*

For a report of the committee appointed by this chapter see chapter 12, *post*. See, also, chapter 142, *post*, and note.

Chap. 3. This chapter is from archives, vol. 71, p. 219. It is recorded in council records, vol. VIII., p. 195.

The vote referred to in this order constitutes chapter 67 of the resolves of the year 1705-6.

The resolve of 1701-2, chapter 76, for presenting a piece of plate to Römer and another to his son seems never to have been carried out, and it was rescinded by the chapter last referred to.

As early as February 28, 1704-5, a message was sent from the Council to move the House “to make a suitable Present to Coll. Römer her Majties Engineer now going Home, in Acknowledgement of his good Service done for this Province;” ¶ but to this the House does not appear to have responded — probably because it was learned that Römer would not accept such a present.

On the last day of the third session, 1705-6, a warrant was ordered¶ by the Governor and Council to be drawn on the province treasurer for the payment of thirty pounds to John Römer “as a gratuity for his service at her Majties Castle William.” This was in compliance with chapter 67 of the resolves of that year, which was passed in response to Römer’s statement in his remonstrance of October 21, 1705, printed in the note to the last-named chapter. But it does not appear that young Römer ever accepted this “gratuity.” The reason for his declining is suggested in the note to chapter 10, *post*.

* “April 29, 1706. An Account of Wages and Expences, presented by Capt^l Thomas How, Capt^l William Heath and Lieut^l Henry Lyon, amounting to fifteen pounds, three shillings & ten pence, for riding the Circle of the Frontiers from Northampton to Bracon by his Excellency’s Order in this Month of April, was allowed, and Mr Commissary General directed to pay the same, Heath and Lyon being going into the service.” — *Executive Records of the Council, vol. 4, p. 253.*

† See note to resolves, 1705-6, chapter 93.

‡ The records of the council of the province of New Hampshire contain the following entry which, apparently, indicates the substance and the approximate date of a similar proceeding in the Council of Massachusetts:—

“At a Council held at Portsmouth, on Wednesday, the eighth day of May, 1706.

His Excellency’s Letter of the sixth of May instant was communicated to this Board setting forth that Capt. Strickley [Stucley] was arrived from Barbadoes and acquainted that the French Fleet were increased to 14 men of Warr, 40 Privateers, six thousand land men, and were like to carry all before them, if not diverted by a Fleet from England. His Excellency also directs that the Sheriffe and other officers take exact accounts of all merchants powder in the Province, and commands that none be sold or sent out of the Province upon any pretence.

Ordered, that Mr. Secretary issue forth warrants to the Sheriffe to search into all houses, warehouses or elsewhere in this Province; and take an account of the quantity of powder in each persons custody, and return an account to the Secretary of the same, in order for the Secretary to write his Excellency thereof.” — *Provincial Papers, etc., vol. 11., p. 476.*

§ The discrepancy between the number of barrels mentioned in the warrant and in this item (presumably caused by bringing them to a smaller weight per barrel) is not reconcilable by this theory; since, supposing each barrel to weigh one hundred pounds, the amount paid for seventy-one and ³⁸/₁₀₀ barrels at £11. 10s. per barrel would amount only to £820 17s. 4¹/₂d.

¶ Council Records, vol. VIII., p. 111.

¶ Executive Records of the Council, vol. 4, p. 246.

Chap. 4. This chapter is from archives, vol. 31, p. 9. It is recorded in council records, vol. VIII., p. 198.

What is related in the note to chapter 6, *post*, of the immunity of the frontiers from hostile invasion since the autumn of 1704, the constant expectation of an irruption, and finally the termination of the interval of quiet by Vaudreuil's permission to the savages to resume hostilities, particularly applies to western Massachusetts. The eastern frontiers enjoyed nearly the same exemption. There were, however, on a small scale, occasional raids, captures and murders in the seaboard settlements of Maine and New Hampshire by the savages, and inland collisions with their scouts; and the English had sent out reconnoitring parties.* Although Dudley in his opening speech to the legislature of New Hampshire in the winter session of 1705 had congratulated them upon the security they had enjoyed up to the date of their assembling,† he expressed his opinion that the time had arrived for the adoption of more active measures to repel invasion, as follows:—

“*Gentlemen*:—

It is eight months since your last recess, during which time by the favor of Almighty God, the Province has been safe in all parts, notwithstanding the scouts of the enemy look upon us everywhere. It is what I expected from the distance the Indians are now lodged from us; And therefore I abated any standing forces and counted a small marching party for a short time sufficient; but our security this winter must depend upon a large circular march once a month at least, for which I shall give speedy order; And if the ordinary marches of the forces in the Province of Maine be duly kept, and the poor people will bear the inconveniences of their strict Garrisons, we shall be safe.”—*Provincial Papers of New Hampshire*, vol. III., p. 314.

To this speech the representatives a few days later voted a favorable response, humbly acknowledging the Governor's care for the defence of that province and engaging to raise money in the spring to meet “whatever just Debts shall appear Dew from ^{ye} Province.”†

In his speech to the Massachusetts Assembly at the opening of the April session, 1706, the Governor had recommended preparations against fresh incursions of the enemy, but owing to the loss of the executive records of the council, it has not been found practicable to ascertain if any extraordinary measures were decided upon.

Soon after the disappearance of snow in the northern parts of New England, the bands that Vaudreuil had let loose began their movement towards the English settlements of New Hampshire and Maine. The earliest public announcement of their approach appears to have been the following item in the News-Letter of May 13, 1706:—

“Dover, May 3d. On the 27th last, Some Sculking Indians about 10 or 12, came on part

* On the thirteenth of October, 1705, the scouting party under Captain Tyng returned from an expedition to the northwestward. See note to resolves, 1705-6, chapter 109.

“The same night [the thirteenth of October] Capt. Lane and his Company Returned from *Sabegog* Ponds, which lies about 50 miles W. N. W. from *Casco*, but made no other discovery than a few deserted Wigwaams: This Pond is 20 miles long, and about 7 miles wide, very remarkable for Fishing, where our men were refresh'd with variety of Fish, especially Salmon Trouts, some whereof 2 foot long. In their Return they saw 2 Indians at *Black Point*, but being at a distance and they near a Swamp, made their escape; one thing remarkable is, That in their march they did not discover any wild creature excepting a Squirrel or the like, by which means the Enemy cannot get any manner of Sustenance in the woods near to us, which we hope will starve them.”—*Boston News-Letter*, No. 79. October 15 to 22, 1705.

The News-Letter of the twenty-ninth of October contained the following items, descriptive of assaults by the Indians at Cape Neddick on the twentieth:—

“*Piscataqua*, Octob. 26. On *Saturday* the 20th Currant, about 20 Indians appeared at Cape Neddick, and Carried away 4 Sons of *John Storer* who were at a little distance from the Garrison, several others that were out of the Garrison, retired to it with all speed; on which the Enemy fired about an hour, then drew up the Children in sight of the Garrison, and marched off. At *York* 4 or 5 Indians were also discovered: Major *Walton* with a *Company* of men is gone in pursuit of the Enemy.

Capt. *Broune* at *Wells* hearing of the Enemy's unhappy Enterprize in Carrying away the 4 Children from 3 to 12 years of Age, went with his *Company* in pursuit of the Enemy with utmost Expedition; but there being 2 places over a little River lying near *Sacho*, about 2 miles distant which they usually pass, and not knowing which of the two they would take, Capt. *Broune* very prudently divided his *Company* into 2 parts, whereof one half went with Lieut. *James March*, who happened to discover the Enemy (without the least observation) as they were passing over a little Bridge, being within 15 rod of them; some few with the poor Captives were got over a minute or 2 before; and our men discovering several behind & on the Bridge, fir'd several shot upon them, which being an unexpected surprisal, caus'd a most dismal Confemeration among them, inasmuch that some fell forwards, others backwards, and some into the River which was 10 foot deep, some throwing away their Plunder, others their Blankets & Snapacks, till at last some few of the Enemy on the other side of the River fired at our men, killed one & wounded another: By this time Capt. *Broune* (hearing the Guns) came up to the rest of his *Company*, who drove the Enemy off, and pursued them; but they scattering among the Thickets, our men were made uncapable of making any further discovery of what damage we did them, but most probably several of them were slain and wounded.”—No. 80. See foot-note on p. 576, *post*.

Penhallow gives the date of the attack on Cape Neddick as the fifteenth, which may be correct since before the twenty-second the Governor again sent forth Tyng and Lane, as appears by the following in the News-Letter of that date:—

“*Boston*, By His Excellency's Direction, Capt. Tyng with about 50 men marched from *Dunstable*, and Capt. Lane with upwards of 60 men from *York*, to Search the Woods if could discover any of the Enemy.”—No. 79.

The News-Letter of January 28, 1705-6, thus records the marching of other scouting parties:—

“*Boston*, Capt. Brown from *Wells*, Capt. Tyng from *Dunstable*, and Capt. Stevens from *Haverill*, are Marched into the Woods with 40 Men each, and 15 days Provision, to Scout from Connecticut River to *Sacho* River, Forty Miles above the Heads of the Frontiers, to discover any Stragling Indians in the Woods.”—No. 93. See chapter 92, *post*.

† On the thirteenth of December.

‡ *Provincial Papers of New Hampshire*, vol. III., p. 321.

of Oyster River, and suddenly Kill'd and Captivated 8 Persons, who had been Stragling abroad out of Garrison." — *No. 108.*

Of this attack Penhallow gives the following account:—

"But as the spring came on, April 27th, 1706, a small body fell on an out-house in Oyster River, where they killed eight, and wounded two. The garrison which stood near, had not a man in it at that time; but the women, who assumed an Amazonian courage, seeing nothing but death before them, advanced the watch-box, and made an alarm. They put on hats, with their hair hanging down, and fired so briskly that they struck a terror in the enemy, and they withdrew without firing the house, or carrying away much plunder. The principal sufferer at this time, was John Wheeler, who thinking them to be friend Indians, unhappily fell under their fury."* — *Indian Wars, p. 41.*

The narrative proceeds with the following description of a tragedy near Kittery† about the same time:—

"Two days after, Mr. Shapleigh and his son, as they were travelling through Kittery, were ambushed by another party, who killing the father, took the son and carried him to Canada. In their march, they were so inhumanely cruel, that they bit off the tops of his fingers, and to stagnate the blood, scared them with hot tobacco pipes." — *Ibid., p. 42.*

Upon the assembling of the Massachusetts Legislature in the next General Court the Governor, in his opening speech,‡ made no allusion to these assaults of the enemy, evidently deeming them so inconsiderable as not to be worthy of notice. Not long after, however, another Indian outrage was perpetrated at Cochecho, of which the News-Letter of the tenth of June gave the following report:—

"On Thursday the 6th Currant, there came an Express to His Excellency from the Province of *Maine*, giving an Account, that 6 or 8 of the Skulking Enemy Indians on Tuesday last came unawares upon 3 or 4 persons that were working in their Field at *Cochecha*, and kill'd two of them being Young men [George and Maturin Riccar, says Pike, and a boy captured], e're they could escape to the Garrison, as the other did." — *No. 112.*

Under the existing establishment, both in Massachusetts and New Hampshire, Dudley as commander-in-chief had full authority to repel invasion and to pursue and engage the enemy with the forces at his command, but additional forces could be provided for only by consent of the representatives. During the previous year he had had the assistance of a company of Moheags, from Connecticut, with the concurrence of the colonial council and the approval of the Legislature of Massachusetts. These friendly Indians were particularly serviceable as scouts because of their familiarity with Indian habits and modes of warfare, as well as their own experience in traversing the wilderness, and had proved an important accession to the force which Lieutenant-Colonel Hilton§ led against Norridgewalk in the winter and spring of 1704-5. Dudley seems now to have determined to secure the services of these Indians in the most prompt and direct manner, without first applying to the Governor of Connecticut. His advances to this end are somewhat obscure, owing to the loss of the earlier correspondence between him and Owaneco, the principal chief of that tribe, and with Captain John Mason, who had been appointed trustee to Owaneco and his people, for managing all their affairs; but there is reason to infer that he adroitly managed to have it appear that the Indians made the first overtures, which were laid before the Council in the manner and with the results shown in this chapter. Mason, it seems, communicated Dudley's request to Governor Winthrop. The letter in which this communication was made has not been discovered, but that it was received by Winthrop before the eleventh of June appears by the following letter, in which the Governor resented this interference with his proper functions:—

"CAPT MASON, — I have yor letter, & when I hear from Govr Dudley the necessity of such a party of Indians for her Majestye's service as yon mention, will doe what I can to supply him; but in the mean tyme the Moheags nor noe other Indians must march out of the Government without leave. You are an officer in the Government and I doe recomend to you to take care in that matter. I am

Yor loving freind,

J: WINTHROP.

NEW LONDON, June 11th 1706." — *Winthrop Papers, part V., p. 329.*

Though Owaneco was the principal chief of the Mohegan tribe his son Mamohet, or Mahomet, who had been officially declared his successor,|| seems to have detailed this company.* That they arrived before the twenty-second of June appears from the following order from Dudley to the Secretary of this province:—

"S^r

I am not so well to day as to Come to town adjourn to Monday afternoon Draw a Commission for John Ashcroft lieutenant of Mahomets troop of Moheags.

they march on Monday morning from Roxbury

Your humble st

J DUDLEY." — *Mass.*

Saturday.
Archives, vol. 71, p. 227. See Executive Records of the Council, vol. 4, p. 329.

* Belknap says that they killed Wheeler, "his wife and two children," and that "Four of his sons took refuge in a cave by the bank of the Little Bay, and though pursued by the Indians escaped unhurt." — *Hist. of New Hampshire, ed. 1792, vol. I., p. 339.* Pike says that Bomazeen was thought to have done it, and that ten persons were killed, including John Drew.

† "... yesterday [June 6, 1706] Mr. John Shaplie and his Son being Riding on the Road near Kittery, their Horses were found all bloody without their Riders; a Party of the Garrison that went out in Quest of the Senking Enemy, found Mr. Shaplies Body, and his head cut off, but cannot tell what is become of the Son." — *Boston News-Letter, No. 112.* Pike (p. 142) says, that "Nicholas [the son] is come home again."

‡ May 30, 1706.

§ See note to resolves, 1704-5, chapter 93, p. 446, *ante.*

|| Colonial Records of Connecticut, 1680-1706, pp. 86, 444.

* Since Dudley refers to them as a troop they were evidently mounted.

On being informed of the departure of this company, Winthrop wrote to Dudley as follows:—

“SR,—I am informed by a letter from Capt Mason that yor Excell^y sent to the Moheags for a party of Indians, we^h is quite wrong; & since that a party of English & Indians, weh one Aserast is said to head, are drawne out of this Government under pretence of service in yor Province. I desire your Excell^y, if they should be marcht into yor Province, that they may be made to returne with all speed, their service being designed on the sea coasts & cannot be wanted in this tyme of danger. I am, SR,

Yor very humble servt, J: W.

NEW LONDON, June 27th 1706.” — *Winthrop Papers, part V., p. 333.*

To this Dudley directed the Secretary to make the following reply:—

“BOSTON, July 1st 1706.

HONBLE SR,—The Governour is very ill at this time and his pain forbids him to write, but has directed me to acquaint your Hon^r that he had your letter the last post, intimating your dissatisfaction with the march of the Moheags this way, and that he is much surprized that the assistance of twenty Moheags, at the direction of their sachem, & two English men volunteers, to serve the Queen in this Province, should be grievous to you. The Indians have often pray’d him, since they have been put by their planting and improvements, that they might hunt in this Province, which he has for three years last past allowed, and lately that they might be employed in the service, at the pay and subsistence of this Province. That when they so applied, his Ex.^{cy} directed M^r Mason, their procurator & guardian, to acquaint yor Honour wth their desire and his Excellency’s acceptance of their service, and that then they might come when they pleased, he should employ them & pay them English wages. That he has, at this time, one thousand men in pay for the necessary defence of the frontiers, and is greatly surprized that the service of twenty Indians who have a right to dispose of their own service, and two English men volunteers offering to keep them company, should be such a breach upon you. Especially after her Mat^y commands that this Province should be assisted by you in all things for the present service. His Excellency thinks he can tell where one hundred Massachusetts men are gone into Connecticut Colony to save themselves from taxes and service in the present war, & admires that two volunteers coming from your Govern^t should trouble yor Honour. However, if they have broken any law for their offering their service here, he remits them to it. Of any other men, Indians or English, than the abovesaid twenty and two, he knows nothing, and do’s not desire any more, since it is grievous to your Hon^r, and supposes you will take yor own just methods to prevent them, nor do’s he intend to entertain any such. His Excellency commands me to give his service to your Honour & wishes your health. Honble SR,

your most humble servant,

ISA. ADDINGTON, S.” — *Ibid.*,

p. 337.

Winthrop rejoined as follows:—

“NEW LONDON, July 4th 1706.

SR,—I have your letter of the 1st of July, weh consists of severall paragraphs, but it is not mentioned that his Excell^y has ordered that party of English and Indians to returne, that have soe disorderly withdrawne themselves out of this Government. What is mentioned of the Indians being put by their planting & improvements is utterly false, they being supported here with the greatest care & incouragement. M^r Mason’s pretensions to be procurator & guardian to the Moheags, weh you mention, are idle & impertinent, and does very much debauch them & obstruct her Majestye’s service in this Government, & I know noe right they have to dispose of their service, but in their domesticall occasions; and in all their motions abroad they are to be directed by the Government, as I presume those Indians are in the Province of the Mattachusets. Her Majestye’s recommendation to this Government for assistance is best interpreted by themselves, who will doe their utmost as they are able, having marched a detachment of sixty men into the county of Hampshire, weh are now there, and wee strine with great difficulty to assist your Province to the oppression of our people. What is added in your letter of one hundred Mattachusset men come into this Government is unknowne here, and I have ordered that whatever young men are found in this Government belonging to the county of Hampshire, that they be immediately sent home, and if his Excell^y please to point to me any persons that have deserted her Majestye’s service, they shall be secured. I must insist still that his Excell^y will returne that party of English and Indians marched into his Province, being more then can be spared from our sea coast. Pray give my service to his Excell^y I mourne for his illness and heartily weh his recovery. I am, SR,

Yor affectionate servt,

J: WINTHROP.

M^r Secretary Addington.” — *Ibid.*, p. 338.

By the following communication from Winthrop to the council of Connecticut at Hartford, it appears that before the tenth of August this company of Indians had returned and that by the eighth another and larger party had taken their place in the same irregular manner:—

“ . . . I communicated to the Council at your last meeting here that Capt Mason, under colour of a letter from Gov^r Dudley to the Moheags, have debauched 20 of them and two English, to serve at the eastward without any leave from me; but, quarreling among themselves, they came home; and I am informed that an other party of 30 of them upon the same acct^l withdrew themselves out of the Government two dayes agoe, weh is fit for yor consideration as not to be indured, and may be of unhapy consequence when they finde themselves loose from the Government. Those Indians might have been a proper scout up the river towards Cosasset, but that is frustrate now and I am not of opinion to send any of our men on that designe, as not very probable of success, nor is it incumbent upon us. . . .” — *Ibid.*, p. 340.

To this Winthrop received from the council the following reply, advising him to plainly inform Dudley that such conduct could no longer be endured, and threatening retaliatory measures:—

“HARTFORD, August the 13th 1706.

... In answer to the Moheges being so unaccountably drawn out of the Government, the Council here resent it very ill and would have your Hon^r to be very plain with Gov^r Dudley concerning the same; and in case such private intrigues be managed, having no liberty frō your Hon^r, that we must forbear our help in the county of Hampshire. We do intreat your Hon^r no longer to bear such indignities.” — *Ibid.*, p. 341.

Following the advice of his council Winthrop again wrote to Dudley, peremptorily demanding the return of the Indians, as follows:—

“NEW LONDON, Aug. 15th 1706.

Sr, — I am surprised yor Excell^y should yet farther intermeddle with our Indians, being informed you have entertained 30 of the Moheags who, with others here about, were designed to assist us in this quarter, whilst wee spared to your [town] to garrison yor townes in Hampshire, and, upon the earnest solicitation of Coll: Partridge & yor other officers, wee sent out 50 men more the last week, who are now in yor service. I desire therefore you will presently send home those Indians with what English are with them, but if I heare not from yor Excell^y of their returne by the next post, I will the same minute call home all our forces that are in the county of Hampshire, as of absolute necessity for the safety of her Majestye's intrest & her subjects in this Government. I am Sr,

Yor very humble scrv^t, J: W. — *Ibid.*,

p. 342.

By the following extract from a letter by Winthrop to Sir Henry Ashurst, the agent of Connecticut at London, it will be seen that the second company of Moheags received by Dudley into his service was with him as late as October:†—

“N. LOND, Octo^r 3th 1706.

I must not forget to observe to you that Gov^r Dudley, since his being at Stonington, has wheedled 2 Companies of our Indians to come into service in his Government (one of wch, of about 30 men, are now with him) without so much as informing mee of it. Whereby the Indians are encouraged to cast off y^t duty & respect w^e y^e have always shewn to this Govern^t. I wrote to him and shew'd him the mischief of such proceedings, and he knows y^t upon a line to mee from him the Indians might have been sent upon y^t service, as heretofore they had been, without any such disorder or inconvenience to this Government; but he takes no notice of it, but, by means of Mason, did privately incourage y^e company of Indians now with him to go upon y^t service without any leave had (as formerly) from this Government, and this after I had wrote to him as above; which I cannot judge to be so much for any occasion he has of their service as to make y^m disaffected to this Govern^t. I also send the copies of 2 lett^rs from Coll. Partridge & M^r Stoddard, principall persons in y^e County of Hampshire, by wch you will see how little reason Gov^r D. has to complain of our not assisting his Province.” — *Ibid.*, pp. 349, 354.

Ashurst, whose antipathy to Dudley was intense, and never concealed, writing from London under date of April 24, 1707, reported to Winthrop Dudley's disingenuous representation of his controversy with Winthrop in regard to the Mohegans, as follows:—

“Dudly writes to the Lords of the Trade an abstract that you are discontented that the company of the Mohegan Indians are listed in the Queens service under him.” — *Ibid.*, p. 350.

By the following passage in Ashurst's letter of May 21, 1706, it would appear that the agent had some ground for suspecting that Dudley had turned to his own pecuniary profit the services of the Moheags in New Hampshire the year before:—

“I am told he [Dudley] took money of the New Hampshire Government and made you send the men to guard them; let this particularly be inquired into.” — *Ibid.*, p. 327.

Chap. 5. This chapter is from archives, vol. 3, p. 415. It is recorded in council records, vol. VIII., p. 197.

The following is the petition mentioned in this chapter:—

“To the Hon^{ble} y^e Speaker & Worthy Memb^rs of y^e house of Representatives now Convened in Gen^l Assembly for y^e Province of y^e Massachusetts Bay & a

The Petition of Joseph Hammond of Kittery in y^e County of York in Behalfe of y^e s^d Town humbly Sheweth, that whereas at y^e Session of this Court in May 1706 there was Abated out of y^e Tax Set on s^d town in y^e year 1704, Thirty eight pounds with this Proviso viz!—

That y^e Selectmen of s^d Kittery wth y^e Representative of s^d town should Apporcon y^e s^d Abateme^t on those Inhabitants Particularly who had been Impoverished by y^e warr & a, & y^e names of those persons returnd into y^e Secretaries Office, as y^e s^d ord^r Reference being had will Appear/ Now y^e s^d Selectmen having Accordingly Apporconed y^e Same on y^e p^rsons most Impoverished as afores^d but neglected to make timely return of their names According to s^d ord^r

Yor Petition^r therefore humbly prays that s^d Return may be now Accepted that y^e Treasurer may be restrained from Sending forth warrants of Distress ag^t those Constables to whome y^e Same was Comitted/ So Prays Yor humble Supplicant/

Boston y^e 29th May 1706

JOS HAMOND.”* — *Mass.*

Archives, vol. 3, p. 415.

With this petition was filed the following lists of names and apportionments, aggregating eightpence less than the abatement allowed in resolves, 1705-6, chapter 42:—

* Representative to the General Court from Kittery.

† They appear to have served from August 6 to October 25. — Executive Records of the Council, 4, 328. Ashcroft received for himself and his men £94 3s. 9d. — *Mass. Archives*, 122, p. 227.

"A List of the Persons to whom we distributed y^e £14-8s: ordered by y^e Generall Court out of our Late Tax: A: D: 1704

Edmund Gage	£: - 6-0	Elisha Clark	£0 - 6-0
Widdow Mitchell	0 - 5-0	Lewis Tucker	£0 - 10-0
John Ford	0 - 5-0	Rogr Thomas	0 - 4-0
John Amce	0 - 5-0	Henry Bement	0 - 15-0
James Foy	0 - 5-0	John Tinny	0 - 10-0
Tho ^s Hooper	0 - 5-0	Jedidiah Jordan	0 - 10-0
Joseph Cradouer	0 - 10-0	Widdow Palmer & Daught ^r	1 - 08-0
William Rob ^t s jun ^r	0 - 5-0	James Braddeen	0 - 05-0
Aaron Phares	0 - 6-0	Widdow Tinney	0 - 05-0
Joseph Crockett sen ^r	0 - 6-0	Widdow Haley	0 - 5-0
John King	0 - 5-0	Widdow more	0 - 5-0
John Frink	0 - 5-0	old Goodman Laiten	0 - 5-0
Rich ^d Endle	0 - 6-0		
John Fennicke	0 - 10-0		5 - 8-0
Sam ^l Johnson	1 - 00-0		
Widdow Hammons	0 - 06-0	RICHARD CUTT	
Paul Williams	0 - 15-0	Jos: WILSON	
John Ball	0 - 5-0	ELIHU GUNNISON	Selectmen for y ^e Town of Kittyry."
Dan ^l Jones	0 - 5-0	ICHABOD PLAISTED	
John Shepherd	0 - 10-0	JOHN SHAPLEIGH	
Walter Deniford	0 - 5-0	JOHN HILL	
Hezekiah Elwell	0 - 5-0		
John Gear	0 - 15-0	— <i>Ibid.</i> , p. 417.	
Silvanus Tripe	0 - 05-0		
John Moggerridge	0 - 10-0		
	9 - 5-		
	5 - 8-		

"Mosses Wostor:	8: d	William Fry	8 0
John Staple	7: 8	John Pall	7 0
James Pickernell	5: 6	James Stapell	5: 9
The: Widdowe. Nelson	6: 6	Thomas: Musseet	5: 0
James Thomson	3: 9	Samull Smale	10: 9
John Cole	6: 6	Dannell Fog	7: 9
Frances Allen	7: 6	Mathew Libbe	7: 8
Mosses Bonden	8: 0	Daned Libbe	7: 9
Samuell Johnson	5: 6	Thomas Huncom	7: 6
James Tobee	7: 0	William Blacke	10: 0
John Rogers	6: 9	Nicholas Morrell	9: 9
	12: 6		

8: 14*: 1

	ICHABOD PLAISTED	Selet men."
	JOHN SHAPLEIGH	
	JOHN HILL	
	DANELL EMREERY	
	— <i>Ibid.</i> , p. 416.	

"Josiah Goodridge	£- 5-6	Thomas Rodes	7-0
Walter Allen	5-0	Widdow Elizabeth Gowen	1-9
Thomas Gubtail	5-0	Nichols Turbit	5-3
Samuell Brackett	5-6	Peter Wittome	1-0-0
Gabriel Hambleton	5-6	Thomas Holmes	6-0
Gilbert Warren	5-3	Thomas Chick	5-0
Robert Gray	7-3	Allen Voz	1-6
John Nason	8-0	Andrew Neal	9-0
William Wadley	7-0	John Key senz	3-0
Baker Nason	9-0	Richard Chick	6-9
Widdow Martha Lord	8-0	Thom ^s Butler	5-6
John Cooper	7-0	Joseph Abbot	6-0
Peter Grant	3-0	John Abbot	7-6
Job Emery	6-6	Lennel Gowen	1-0
Sam ^l Shores	9-0	Daniel Stone	7-6
Edward Waymoth	5-9	Daniel Emery	9-0
Timothy Waymoth	9-0	Walter Abbot	7-6
Bartholomew Thomson	9-0		
Henry Snow	5-0		
Christopher Banfeild	3-0		
George Braun	6-6		
John Brooks	6-0		
Nicholas Gellison	9-0		
Benja Tubbs	5-0		
Nich ^s Goen	9-0		
Willm Stacy	5-0		
Francis Harlecoo	8-9		
William Smith	5-6		

Vera Copia J P—Cler

	ICHABOD PLAISTED	Selectmen."
	JOHN SHAPLEIGH	
	JOHN HILL	
	DANELL EMERY	
	— <i>Ibid.</i> , p. 418.	

The above petition was read, first, in the House on the sixth of June. On the next day it was read again, and the order which constitutes this chapter was passed thereon and sent to the Council, for concurrence. On the same day it was concurred in, and consented to by the Governor.

Chap. 6. This chapter is from council records; vol. VIII., p. 198. It has not been found in the archives.

It is doubtful if the Governor submitted to the representatives more than one letter for their approval at this time. Certainly the only letter that has been discovered which could possibly have been intended is the following, which does not show the day upon which it was written:—

“BOSTON, June [blank] 1706.

S^r — I am very much urged by the Assembly of this Province now sitting, to acquaint you that besides the just expectation that we are in of the French fleet by sea, we are every day alarm'd by the enemies scouts upon the inland frontiers. We have had three mischiefs in ten days time in the Province of Mayn & eastward by the loss of several people; and the enemies scouts are certainly to the westward in the county of Hantsheir, which is your own frontier, as well and more than ours. I have one hundred men there in pay, but there is absolute necessity of one hundred more constantly to reside, besides a good force of two or three hundred to march into a distress. It is not less than thirty thousand pounds will support this years expence upon this Province, which we are not able to supply, and it will be the last mischief to me to be forced to ease my charge by drawing in any of the frontiers. I most earnestly desire your just consideration of the present distress, and that you will send one hundred men to reside at the upper towns in a proper proportion; and if I must feed them, I will, rather than lose their service. And further that you will let me be assured of the readiness of a greater force to support them; the first is necessary to save their lives till the last comes. Otherwise I only expect your people will come to their funerall, as has been sometime done heretofore. I desire you will let me have your answer, that I may know what I may expect from your Government I have by no means had any service from your people for near eighteen months past. I earnestly wish your health, & am S^r your very humble servant,

J. DUDLEY.

Indorsed by Fitz-John Winthrop, ‘Copy intended to be sent to Hartford.’ — *Winthrop Papers, part V., p. 330.*

That the foregoing was what the Legislature intended by the word “letters” is rendered more probable by the mention of but a single communication in the following subsequent letter from Dudley to Winthrop:—

“BOSTON, 17th June, 1706.

S^r, — Besides what I wrote you last post, I have now news from Albany of a great descent intended upon us from Quebeck, and preparations made and a new tribe of Indians entertained for that service. Our intelligence from thence has been often true, and I am more suspicious of it at this time because they adde that Shelden and my messengers are restrayned to be sure they are not returned; nor any letters from them, which I strictly instructed him to send. The time is elapsed that he might well have been here, and the French are encouraged by their late success at Nevis to make a tryal upon us. I most earnestly desire you will not delay a party of one hundred men to take their quarters in Hampshire presently, as well as a greater force to be in readiness to support them. I am at a very great charge to cover the Province of Maine and all the frontiers of Essex, Middlesex and Suffolk, and pray that I may soon be advised of your march, which I shall willingly discharge upon better notice. I am S^r,
Your humble servant,

J. DUDLEY.” — *Ibid.*,

p. 331.

The response which the council of Connecticut made to Dudley's application is shown by the following letter from the secretary of that colony:—

“NEW LONDON, June 19th 1706.

S^r, — Your Excellencies letter by the last post, and that which came by the post this daye of the 17th instant, have been considered in Council, and in answer thereunto I am comanded to signifie to you that a company of sixtie men are ordered to march forthwith into your countie of Hampshire, and that the Government are at the standing charge of four hundred men, ready at an hour's warning to march for the relief of your townes in that countie. Which are so ordered that it will not require more than a dayes march to afford them assistance; and that will not be out of season, if your scouts keep a good eye upon the enemies motion, in case they intend a descent. And it is concluded that this is what we may adventure to do at this present juncture, when we are alarm'd by sea and in expectation of the enemies fleet from the West Indies, and may be necessitated to improve our forces for the safetie of our townes on the shore. This is what I am comanded by his Hon^r and Council to acquaint your Excellency with. I am

Your Excellencies most humble obedient servant,

ELEAZAR KIMBERLY, Secy

By order of his Hon^r and Council.” — *Ibid.*, p. 332.

After Beaucourt's repulse at Lancaster* Dudley continued firmly impressed with the idea that Vandrenil meditated another attack upon the western frontiers.† During the spring and summer of 1705, even after Livingston had convinced him that his apprehensions as to the gathering of the Indians at Cowassie were unfounded;‡ his confidence in

* *Resolves*, 1704-5, chapter 71, note.

† *Ibid.*, 1705-6, chapter 109, note.

‡ *Ibid.*, chapter 36, note.

the security of Hampshire County was only temporary. In the following letter he had proposed to Governor Winthrop that the latter send a force of Moheag Indians to join with forty men from Massachusetts in another expedition to Cowassie:—

“BOSTON, 14. May, 1705.

S^r,—By a captive late from Quebeck I am assured of a great strength of Indians from thence, & where they will make their impression we cannot tell. I pray you will give orders that a very considerable strength be ready at an hours warning to march into West Hampshire; & if in the mean time you will send a small troope of the Moheags to joyn with forty of our soldiers & inhabitants to see Coasset, I think it may be well, & if it be done within ten dayes I beleive it best. I am S^r your humble servant,

J. DUDLEY.

I expect Captain Livingston in ten dayes.”—*Ibid.*, p. 294.

The assembly of Connecticut responded to this suggestion by ordering a detail of ten Englishmen and twenty friendly Indians to hold themselves in readiness for that service;* and the Governor replied in a letter, from which the following extract is taken:—

“NEW LONDON, May 30th 1705.

S^r,—I hane yo^r Excellencye's letter of the 14th instant, w^{ch} I hane laide before the Gen^l Assembly and they hane appointed 400 men to be ready at an houres warning, and did alsoe order that a party of Indians and ten English should be raised for a present scout to joyne those your Excellency appoints at Hampshire.”—*Ibid.*

After reporting his ill success in his endeavors to enlist Owaneco's Moheags, and the cause of the Indians' refusal, as shown in the note to resolves, 1704-5, chapter 54, the letter proceeds as follows:—

“However, I am sending an officer (who I intended to goe with this scout) to the Moheagen Indians to gaine, if he can possibly, ten of them to joyne with ten more of the Pegnots upon the designe proposed. I am very much indisposed since my returne hither and can onely (as some of my last good wishes) desire your health and prosperity, and am S^r, Yo^r Excellencyes very humble serv^t,

J: WINTHROP.

Gov^r Dudley.”—*Ibid.*, p. 295.

On the ninth of July Dudley again communicated to Winthrop his fears of “an impression of the enemy,” in the following letter:—

“BOSTON, 9 July 1705.

S^r,—I have reason to expect an impression of the enemy with a large number, at harvest if not before, on the county of Hampshire, & therefore they will need one hundred of your men to reside there constantly, as well as three or four hundred in a readiness for an assault. I am sending forces at this time to make this Province [*illegible*], & you will pardon mee to tell you you will be very much wanting to her Majestyes expectation, as well as your own security, if I have not your share. I heartily wish you health & am S^r, Your very humble servant,

J. DUDLEY.”—*Ibid.*,

p. 300.

To the above letter Winthrop replied, three days later, as follows:—

“NEW-LONDON, July 12th 1705.

S^r,—I have yo^r letter of the 9th instant & am sorry for the danger of Hampshire. I will presently communicate it to the gentlemen of the Council at Hartford, who have orders all ready for the defence of that county upon any exegecy. But I should be glad if yo^r Excelly would informe me the reasons you have to expect the enemy there, w^{ch} would very much encourage our people in the service. Tis diffient to raise men this busy tyme, being not enough for y^e harvest. I hope yo^r Excelly will be better informed of the enemy, and that the danger may be over. I wish yo^r Excelly health & hapines, whatever becomes of, S^r, Yo^r very humble serv^t,

J: W.”—*Ibid.*

The doubt which Governor Winthrop intimates in the above letter respecting the existence of any grounds of apprehension of a hostile demonstration against the western frontiers of Massachusetts was justified by a letter† from Peter Schuyler to the council of Connecticut of the same date as Dudley's, in which he reported that “the principal sachems of the 2 castles next to Mount Real in Canada did come down the river with me in order to confirm a peace and to stopp all inrodes upon the English for the future, which is done,” adding some things that indicated that pacific relations with other Indians formerly hostile were likely to continue.

No raids or other warlike demonstrations by the enemy that were deemed important occurred during the summer and autumn—a circumstance which Dudley made the subject of congratulation in his speeches‡ of the twenty-fourth of October, to the Legislature of Massachusetts, and of the thirteenth of December, to the legislature of New Hampshire. This quiet continued until the next spring, which led Dudley in his speech of April 10, 1706, to make the declaration respecting the “ease and security” of the frontiers which is quoted in the note to resolves, 1705-6, chapter 109.

This state of quietude, however, was interrupted later in the spring. The failure of the pending negotiations for a truce between Dudley and Vaudreuil resulted in the renewal

* Colonial Records of Connecticut, 1689-1706, p. 517.

† Winthrop Papers, part V., p. 299.

‡ See notes to resolves, 1705-6, chapter 109, and chapter 4, *ante*. The capture of children at Cape Neddick and the outrages at Kittery were what Dudley referred to in his declaration that the enemy had occasionally “looked in upon” the frontiers. In April, 1706, Rous was instructed to demand of Bonaventure the captured children. See note to private act, number nineteen.

of hostilities by the latter,* in expectation of which, probably, Dudley had advised the preparation recommended in his speech last above referred to. Even during the winter, and while it was possible that a truce might be agreed upon, the leading men of Hampshire County were not without anxiety in regard to the indifference of their neighbors and their want of preparation, and were in constant fear of invasion. The following from the Winthrop Papers shows this state of feeling:—

"For her Maj^{ty}s Service, To y^e Right Honorable John Winthrop Esqr, Governor of her Maj^{ty}s Colony of Coniticut, these p^{re}s^{ent}; p^{re} W^m Crocker.

HATFIELD, Decem^{br} 12th 1705.

RIGHT HONORABLE SR,—The occasion of these are to acquainte you that I am commanded by his Excellency or Govern^r to make application to yo^rself, referring to the p^{re}s^{ent} hazzards we dayly labour under of an approaching enemy, for a suteable strength to be in a readiness for the reliefe of these uper towns, upon any intimation of discovery made of enenys; especia^{lly} in the next ajacent towns of yo^r Colony. Wee have but 21 men, besides inhabitants, at Derefi^l, 16 at Brookfeild & 3 at Hatfeild; in all 40 men; & can have no reliefe in depth of winter but from yo^r selfs. Therefore entreat yo^r especia^{lly} care for us. We endeavor to keep a scout out above Derefeild & have a great burthen of it & watching, but with few else but or own men, & if we neglect a true watch & scout we fear betraying as formerly. I intreat, Honorable Sr, yo^r care & directions in these respects, & I take leave to subscribe my self yo^r humble serv^t,

SAMLL PARTRIDGE.

If any thing could be done from yo^r p^{re}s to relieve or scouts something, & in the latter end of Jan^{ry} to reliefe or strengthen or garrisons, this I leave to consideration."—*Ibid.*, p. 320.

To this the editors append the following note:—

"NOTE.—It has been thought desirable to omit several similar letters from Colonel Partridge, imploring help. The Connecticut authorities were inclined to attribute supineness to some of the Massachusetts towns. John Livingston, when serving as a Connecticut officer for the relief of Massachusetts, wrote to his father-in-law from Northampton, Jan. 10, 1705: 'Here are y^e most careliss pepell in y^e world; hardly such a thing as a watch in y^e towne, nor had a scoute all this winter; but yesterday did resolve to send one.' He intimated his belief that one hundred determined men could carry the place by sudden assault."—*Ibid.*, p. 321.

But it was not until after the actual approach of the enemy at the eastward, as shown in the note to chapter 4, *ante*, that Massachusetts formally appealed to Connecticut for help, in the letters of Dudley printed in the beginning of this note.

Chap. 7. This chapter is from council records, vol. VIII., p. 198. It is preserved in archives, vol. 111, p. 80.

The petition mentioned in this chapter is as follows:—

"To his Excellency Joseph Dudley Esqr Capt Gen^l and Govern^r in Chief in and over her Maj^{ties} Province of the Massachusetts-Bay and To the Hon^{ble} the Council and House of Representatives now in General Court Assembled at Boston in for s^d Province./

The Humble Petition of John Cary of Boston Brewer

Sheweth

That yo^r Petitioner was formerly an Inn holder and kept the Green Dragon in Boston, where in the space of five years he paid ninety odd pounds Excise, but the sixth year what through the greatness of his Rent & Excise, and Losses, he was forced to break up Honekeeping, having spent what he had formerly gotten by his Industry, so that he was made incapable of paying his Creditors, and the Excise for that year which was twelve pounds, was and still is unpaid, and yo^r petition^r not Capable of paying the Same, but is liable to be sued for it and put to great trouble and charge.

Wherefore yo^r Petitioner humbly prays the favour of this Great and General Assembly, That the said sum of Twelve pounds may be Remitted, and he wholly acquitted from the payment thereof

And yo^r Petitioner (as in duty bound) shall ever pray &c^a

JOHN: CARY."—*Mass.*

Archives, vol. 111, p. 80.

This petition was read, first, in the Council, June 8, 1706, and sent to the representatives, where, on the tenth, it was read and the resolve thereon was passed and sent up for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

It will be remembered that about one year before Cary offered to pay his debt in beer, and that the offer was accepted. See resolves, 1705-6, chapter 2, and note.

* See resolves, 1705-6, chapter 83, note. Vandrenil wrote twice to Pontchartrain confessing this action, once singly and again jointly with Raudot. The clause in the second letter which relates to this subject is given in the note to chapter 54, *post*. In the former letter he wrote as follows:—

"This induced M^r Dudley to send me a deputy by land, with a letter about a month ago, but as it is not sufficiently explanatory, and as M^r Dudley, according to appearances, is seeking only to gain time, the term I had fixed in my answer to these propositions having expired, I permitted several small parties of our Indians to recommence hostilities in his government, in order to force him to declare himself, and I am persuaded, My Lord, that it will have a good effect, for I am advised by some of our prisoners who have returned, that the Country people around Boston who have to bear the entire brunt of the war, absolutely desire their governor to accept my proposals, and I flatter myself you will have found these to comport with your intentions, the good of his Majesty's service, the interest of this Colony and particularly of Acadia. Quebec, 25th April 1706."—*Documents relating to the Colonial History of the State of New York*, vol. IX., p. 776.

Chap. 8. This chapter is from council records, vol. VIII., p. 199, and archives, vol. 40, p. 859.

The gist of the issue between Keene and Shepard was really a question as to the binding effect of a judgment-at-law in a controversy wherein important evidence was not accessible at the time of the trial but which came to light after judgment.

John Shepard, senior, claimed title under a selectmen's grant or allotment of what was supposed by them to be common land, as follows:—

"Wee the Selectmen of y^e Lower part of y^e town of Kittery have given and granted unto John Shepard a tract of land in y^e Spruce creek of ten acres of land to him & his heirs for ever to be taken behind John Balls at y^e western end of y^e creek and to goe upon y^e same line as John Shapleighs lott goes Provided it be in no other mans Propriety June y^e 20th 1671

{ THOMAS WITHERS
CHRISTIAN REMICK
ROBERT MENDUM.
Selectmen.

A True Copie *Ψ* Jos: HAMOND Cler."—*Suffolk Court Files.*

This grant was confirmed and definitely located by order of the inhabitants more than twenty years later, as follows:—

"Att a Legal town meeting held at Kittery March: 19. 1693/4

Voted that y^e power given to John Shepard by y^e Selectmen for Kittery bareing date y^e 16th of March 1693/4 to Improve his grant of ten acres of land which was granted to him by y^e town June y^e 20th 1671 shall stand good—

Voted that Capⁿ John Wincoll Christian Remick Enock Hutchins & Richard Briar are to lay it out.—

March 21st 1693/4/ Measured & laid out to John Shepard by Special order of y^e town of Kittery Dated y^e 19th day Instaⁿ nine acres of land being part of a town grant Dated June 20th 1671 bounded with John Shapleighs line on y^e North Northwest and on y^e Southwest Mr Mendums line & on y^e Southeast wth s^d Shepards house lot and on y^e north east with a part of y^e head of y^e western creek and we found part of this nine acres of land fenced in by s^d Shepard in three places—

{ JOHN WINCOLL
CHRISTIAN REMICK
RICH^d BRIAR
ENOCK HUTCHINS

A True Copie Compared with that on y^e Inferior Courts file

Examin^g Jos: HAMOND Cler."—*Ibid.*

It would seem that the laying out of the land as certified by the committee above named was unadvisedly done and that the title was in dispute. The surveyor employed by the committee found that the lines bounding the land claimed by Shepard conflicted with the claim of Keene, who had long been in possession. He therefore wrote as follows to the justice who issued the warrant for locating the land:—

"Maj^r Francis Hooke

Hon^d Sir In obedience to y^e Warra^t I went to John Shepards in Spruce creek and not only viewed y^e Land called Corimucks but also Measured it and find it to be about ten acres lying between Mr John Shapleighs land & John Shepards and the wood in Controverisie between y^e s^d Keen and Shepard I find to be Cutt in y^e s^d land a good way without John Shepards line of his house lot neither can I Lay out John Shepards lot according to y^e grant till y^e Controverisie about Corimucks be further cleared

Yor Hon^{rs} humble Serva^t

March 8: 1693/4/

JOHN WINCOLL."—*Ibid.*

But upon the representation of Shepard, and for want of record evidence to the contrary,—the court records having been carried off by the Indian enemy,—the committee were induced to go on with the location, and prevailed upon Wincoll to fix the boundaries of the grant according to Shepard's claim.

Keene, it appears, claimed, through mesne conveyances, from one Ephraim Crockett, to whom the land in question had been granted by the town, and regularly laid out, June 3, 1672; and it was this original grant and location that could not be established by the record. Another irregularity in the record-title was that the date of the assignment to Keene's grantor was twenty-one months later than the deed from the latter to Keene; but this was no defect, inasmuch as the former was apparently made to confirm a previous agreement and both were executed before the laying out to Shepard.

Upon securing the above location Shepard brought suit against Keene in the Inferior Court of Common Pleas for York County at the next* (July) term, 1691, "in an acc^on of y^e Case for that y^e s^d Nath^l Keene doth unjustly detain & withhold & forcibly keeps [the plaintiff] out of Possession"† of the premises described in the writ. In this action the plaintiff recovered judgment, and execution was thereupon issued for £2 10s. 10d. costs, which execution was by the sheriff returned satisfied.

Some time after this, but just when does not appear,—probably some ten or eleven years later,—a copy of the original grant and location to Crockett was found, whereupon Keene entered upon the premises and did acts of possession under claim of title, for which Shepard, June 13, 1705, sued Keene in an action of trespass, before a justice of the peace; but the defendant having appeared "and justified, and demurred on title," the cause was removed to the Inferior Court of Common Pleas at the July term. The case was continued to the October ‡ term, when Shepard, who, just before the trial,§ had conveyed the estate

* Terms were held the first Tuesday of April and July, but there was not sufficient time for service of a writ before the April term.

† Suffolk Court Files.

‡ Changed from April to October. Province Laws, 1699-1700, chapter 2, and 1704-5, chapter 1.

§ Apparently on the second of October, — this being the date on two copies of the deed on file, a third copy bearing date the seventh.

in controversy to his son, John Shepard, junior, obtained judgment against Keene for two shillings damage, and costs of court. Keene now appealed to the Superior Court of Judicature at the November term, held in Suffolk County, when the judgment of the Inferior Court was reversed, and Keene recovered against Shepard his costs, taxed at nine pounds thirteen shillings, etc.

Encouraged by his success in the action of trespass, Keene now brought suit against the son, in a plea of trespass and ejectment.* The writ dated December 12, 1705, was returnable at an Inferior Court of Common Pleas to be held at York upon the first Tuesday of January. The defendant, failing to appear at the return day, was defaulted, but the default was taken off upon his appearing later and moving for a continuance on the ground that he had not received seasonable notice, being out of the county. His request was granted upon his paying the plaintiff full costs, who was ordered to enter his case *de novo* at the April term. At this term the record shows that "The Case being fairly Debated & Evidences on both Sides, the Jury were Sent out thereon who Returned their ve[r]dict vizt they find for y^e plt y^e Land in Controversie and Costs of Court, It is therefore Considered by y^e Court that y^e s^d Nath^l Kene shall Recover against y^e s^d John Shepard Jun^r y^e Land Sued for & Costs of Court."†

From this judgment Shepard appealed to the Superior Court of Judicature to be held at Boston at the May term, 1706.

At the trial, both in the Common Pleas, and in the Superior Court on appeal, Keene produced the affidavits of the selectmen of Kittery for the year 1693, who had insisted on Wincoll's laying out the land to Shepard, confessing that they had been in error; that it now appeared to them by record evidence that twenty years before that time Shepard had had his ten-acre grant laid out to him, bounding upon, and therefore excluding, the very land in controversy, of which fact they were then ignorant, and declaring that they were satisfied the land was rightfully the property of Keene and that he was in possession of it at the time of the location and had erected fences upon it which they had wrongfully removed against his protest.

The appellant's grounds of defence appear in his reasons of appeal, as follows:—

"Suffolk To the Hon^{ble} the Justices of her Majties Superiour Court of Judicature to be holden at Boston in the County of Suffolk the first Tuesday in May Anno Domini 1706: in the fifth yeare of her Majties Reigne./

The Reasons of Appeale of John Shipperd Jun^r Appellant and Nathaniel Kene Appellee, from a Judgment obtained against him the Appellant at her Majesties Inferiour Court of Comon pleas holden at York for the County of York Aprill the Second day 1706 in the fifth yeare of her Majesties Reigne for the said Nathaniell Kene then plaintiffe the Action was a plea of Trespass and Ejectm^t for withholding from the said Kene a certaine tract of Land &c: as y^e writt or Attachm^t Reference being had will more fully appeare Judgment was Rendred for the then plaintiffe the now Appellee the Land Sued for and Costs of Court./

1st Reason the Appellant Sayth the Judgment is Erroneous & ought to be Reversed for that the Appellee the then plaintiffe made noe Manner of Title to the Land in Contronersie. for he Sett forth in his writt that the said John Shipperd did withhold from him the possession of a certaine Tract or parcel of Land, containeing tenn Acres with the Appurtenances thereof scituate lying and being in the Townshipp of Kittery at a place called Spruce Creek, on the west side thereof between the Land of m^r Shapleigh and the Land of said Shipperd beginning at the waterside, and soe Running back till tenn Acres were accomplished which tenn Acres the then plt the now Appellee affirms in his writt was given by the Town of Kittery to Ephraim Crockett, and laid out to him by the select men of the said Town the third day of June 1672: but never produces in Court any such Town Grant or lott layers returne neither euer can he therefor he hath made out noe Title by Town Grant &c: as alleadged in his writt. (without which Grant & returne he cann haue noe Right by his writt to the Land in Contronersie:)

2^d Reason the Appellee the then plt produced a Deed dated the 16th: September 1672 (as he sayd) Signed Sealed, and Deliuered by Ephraim Crockett to Charles Ograddo, but not acknowledged, or any Witnesses sworne to the Signeing and Sealeing thereof not Executed with Liverye or seizin thereof of noe validity and altho Recorded is of noe effect being contrary to Law. further the said Kene produced, a Surrender of Charles Ograddo vnto m^r Robert Elliott dated the fifth day of Aprill 1689 of all his Right title &c: to Crocketts Deed; but neither acknowledged or Witnessed and soe of noe effect; then the said Kene produced a Bill of Sale from m^r Robert Elliott to himselfe dated the third of July 1687 but not Executed with Linery or Seizin, therefor of Little Esteem. this is all the Title the then plaintiffe the now Appellee made out to the Land in contronersie therefor the Appellant is humbly of opinion that the Appellee hath made out noe manner of Title to the same/

3^d Reason the Appellant Sayth that he made a legall and Just Right and title to the Land in Contronersie, by producing a Grant from the Town of Kittery to his father John Shipperd dated the 20th June 1671: (being a yeare before the Appellees Grant mentioned in his writt if euer he had any) Afterwards at a Legall Town Meeting March the 19th 1693 It was there voted that the Tenn Acres of Land which was Granted to the said John Shipperd (the father) should stand good: And it was then likewise voted that Captaine John Wincoll, Christian Remock Enoch Hutchins and Richard Bryer should lay the same out, And accordingly March the twenty first 1693 the same was laid out by the said Lott Layers to the said Shipperd, who found the said Shipperd in possession of the Same by fenceing &c: by which Grant votes and Lott layers returne reference being had will more fully appeare.

3^d Reason the Appellant sayth his Title to the Land in Controversie is further strengthened by the oaths of Thomas Rice & Edmond Hammonds who swears that great part of

* See note to resolve, 1704-5, chapter 27, p. 372.

† Suffolk Court Files.

‡ Sic.

the Land in Controuersie had been in the possession of John Shipperd (the Appell^{ts} father) for twenty years or vpwards; these oaths were taken in May 1694 soe that now the Appellant and his predecessors hath been in possession of the same for thirty two years or thereabouts./

4th* Reason John Shipperd the Appellants father At her Majesties Inferiour Court of Common pleas holden at York the 4th July 1694 Comenced a suite in Law against the said Nathaniel Kene for the Land in controuersie, and Rewndred Judgment for the same, and was putt legally into the possession thereof in the yeare 1694 by Joseph Curtis Esq^r High sheriffe of the said County of York as by Returne on the back side of the writt of possession or Execution Reference being had will more fully appeare. And the said Joseph Curtis Esq^r is ready to make oath that the Land in controuersie is the same Land he gaue John Shipperd (the father) possession off as abovesaid./

4th* Reason the Appellee to Evade the Just Right and Title of the Appellant produced m^r Robert Ellotts oath sworne in the yeare 1694. that John Shipperd (the father) was very Earnest with the said Ellott to purchase Coromocks Land And tendred him forty Coad of wood which was tenn pounds And that he desired said Shiperd to shew him the Land and Bounds which he did And asked said Ellott leaue to cutt Timber vpon the said Land and he gaue him leaue, and that it was the Land then in Controuersie &c: which oath the Appellant sayth ought not to haue been admitted into Court for that the said Robert Ellott had sold the said Land to the said Kene long before as by his Deed now vpon Tryal dated in the yeare 1687: will appeare by which Deed the Appellee Kene now Claimes a Title to the Land in Controuersie. soe that m^r Ellott is an Evidence in his own Case to make good his own Title which he has sold haueing noe Right thereto. therefor the Appellant humbly hopes yor Honours and the Gentlemen of the Jury will see Just cause to inuallid that Evidence And to take noe notice thereof./

5th Reason the Appellee further to Euade the Just Title of the Appellant, produced a Subscription signed by William fernald John Shapleigh, and Joshua Downing dated Kittery March the 30th 1706. (by what Meanes procured Knows not) wherein they sett forth they did at the Request of John Shipperd (the father) vpon the 16th day of March 1694 Impower the said Shipperd to Improne a Grant of Tenn Acres of Land Granted vnto the said Shipperd the 20th June 1671: being the Land Now in Controuersie. And say that they now see their Error. And that the same Tenn Acre Grant was laid out to the said Shipperd before &c: To this subscription the Appellant vtterly denies that they the subscribers Impowered his father as Expressed in their subscriptions but that he was Impowered by a Legal Town Meeting whereof the subscribers might be part of that meeting. And that all the Remainder of the Town Meeting cann see noe Error in Impowering the said John Shipperd, to Improne such Grant as aforesaid. And further the Appellant sayth that noe person cann be safe in their Estates and possessions; if after they haue a Town Grant, and haue Improued it thirty twenty or twelue years and Expended to the value of the Land or more in the Improueing of the same by Labour or otherwise that two or three Inhabitants of the Town perhapps for their own interest or through prejudice shall come after soe long Improuement and say they were mistaken in such Grant or vote. And putt in a paper called a subscription to a Court barely setting their hands to the same And not vpon oath Therfor the Appellant humbly conceines the said subscription to be of noe validitie or vse, and ought not to be admitted in this case./

6th The Appellee hath putt in a draught pretending to describe the Land how it lyes but the Appellant Knows nothing about itt & was not present at the doeing of the same soe the Appellee may Lay it out and bound it as he pleases therefor humbly pray your Honours the said draught may not goe to the Jury./

7th Reason. That Ephraim Crocketts Deed doth not mention any Bounds as Breadth Length, Course, or Line. soe that it is Impossible that Crocketts Deed, cann giue the Appellee any Title to the Land in Controuersie. And further the Appellant cann sufficiently proue that the Land in Controuersie Lyes within the Bounds of the Lott Layers returne, and according to the Town Grante as Giuen his father, by the Town of Kittery in the yeare 1671. All which Reasons with what other pleas may be made vpon Tryal of the Case by the Appellants Conncill. It is humbly hoped by the Appellant that your Honours and the Gentlemen of the Jury will see Just cause to Reverse the former Judgment; and Grant your Appellant Costs of both Courts/

22^d April 1706./

JOHN SHEPARD JUN^r
CHA: STORY

for the Appellant

York ss/ These Reasons of Appeal Rec^d into y^e Clerks office of y^e Inferi^{or} Court of Common Pleas in s^d County April y^e 22^d 1706/

¶ Jos HAMOND Cler^s. — *Ibid.*

To the foregoing reasons the only draught of an answer that has been discovered is the following: —

“ Memorandums

to y^e first Reson

The Apelant saith y^e Appellee mad out no maner of titel which is A gros mistake

1 It Apers by Cap^t winkall y^e surmaier return, that he had Layed out Sheperds 30 acers granted June y^e 20th 1671 which by sd Return it plainly Appers that Corromock had Land ther befor Sheperd for Sheperd is bounded on Corromoks so that If Corromok haue no Land ther Sheperd can haue non but there is both Lots: there is also balls & Crockets testimony to y^e posestion of it by Corromok: balls to y^e grant & Laying out both: & there is further Spencers testimony to y^e Laying out & y^e bounds & Enoch huteson who wer present when y^e towns men Layed out both Sheperds & corromoks Land: there is also y^e surmaiers account to Cap^t hunk[ing?]: in y^e year 1693 seting forth: that he had wived & meshured y^e Land Called Corromoks & found it about 10 acers & that it was Licing betwⁿ y^e Land of John Shapleigh & John Sheperd which was swornen in Court July 4th 1694 as ¶ y^e Copey of y^e record apers then there is m^r Ellect testimony to an Agree-ment about y^e Laying out of Corromoks Land & that it was don according to y^e draft:

by Sheperd & sd Elleots order in y^e year 1689 — then ogrados affirmation that Sheperd offered to by y^e Land in contrenersy. there is also deeds to mak out the title of y^e Land to y^e Apelant besids senerall other euendences all which together with y^e posession makes out A Just & onest title/

as to the 3^d reson its answerd y^e Appelant has not yeat no neuer can onestly & Justly mak out A title to this Land in contrenersy: first because all that ener was produced in Court is only A grant mad June y^e 20th 1671 — which plainly Apers was Layed out & bounded by corromks Land 2^dy: though through Sheperds Instagations or request deduced y^e select men telling them he had not his grant granted in y^e year 1671: Jun y^e 20th & desired Liberty to Improne that grant which sd select men gave Liberty for Improne-ment therof not knowing it was Layed out may years befor to sd Sheperd: now all that y^e select men did & all that y^e towne did in conferring what y^e select men had don was only Liberty to Improne sd Land nener inted to giue it to Sheperd nether ded so that Sheperd can pretend no Right to Any Land there but what granted as afore sd June y^e 20th 1671 — all which it will playnly aper hes has in posession & aboue 5 acers more without Corromoks Land alsoe the then selectmen haue giuen in vnder their hands that they haue seen their Error. & aferm y^e sam 10 acers was Layed out to Sheperd before which is tiew — mind that y^e grant to Sheperd is to Run on y^e sam poynt that Shapligh Lin Runeth so that by that grant the return cant not be Right viz: to run on A west & be north Lin but Shapligh Lin is west sovwest as Apers by record which will Content all thos persons swaring that according to y^e return y^e Land in contrenersy is withlin Sheperds Lin: but that is sertenly a mistake: for it nener was Layed out Any other ways then y^e grant & y^e grant as Shapligh Lin Runeth: but that Lin to say the west & benorth Lin takes in all Corromks Land: & great part of Shapligh Land: so that thos euendences signefy nothing but all Coms through y^e mistak of y^e poynt: entering mind the draft in 2^d Cas which sheweth y^e Lins: as y^e Land was Layed out & now If." * — *Ibid.*

The judgment of the Court upon the appeal was as follows: —

" . . . Both Parties Appeared The Writ Judgment Reasons of Appeal & Evidences in the Cause produced and Read Its Considered by the Court that the s^d Nath^l his Action is barred the Land sued for being formerly taken from him by Execution that the Judgment of the Inferiour Court be and hereby is Reversed and that the s^d John Sheppard Recover of the s^d Nath^l Keene Cost of Courts Taxed at Ten pounds Eighteen shillings and Three pence." — *Records of the Superior Court of Judicature, 1700-1714, fol. 177.*

Execution issued accordingly, which the sheriff returned, satisfied, May 22, 1706. Having thus failed in the judicial tribunal, Keene as a last resort applied to the Legislature at the first session, this year, for relief from two judgments, both of which he believed would be reversed if the bar raised by the earlier judgment could be removed and he be permitted to review the case in the light of the new evidence. This he did in the following petition: —

"To his Excellency Joseph Dudley Esq^r Capt General and Governor in Chief in and over her Majesties Provinces of the Massachusetts Bay &c. And To the Hono^{ble} the Council & House of Representatives now in General Court assembled May 29th 1706: —

The Humble Petition of Nathaniel Keen of Kittery in the province of Maine,† Sheweth.

That Whereas yor Petitioner and his predecessors, viz^t Ephraim Crockett, Charles Ogrado, Robert Elliot Esq^r & yor Petitioner who purchased a Tract of Land, of about ten acres in Spruce Creek Granted by the Town of Kittery in or about the year of our Lord 1670. to the sd Crockett and laid out by the select men and surveyor, and in the Possession of the afores^d: Persons and yor Petitioner, till about Twelve years ago, John Sheppard by Deluding the select men of Kittery got Liberty to Improve ten acres of Land, and took that Land which yor Petitioner had purchased and fenced and cleared it. an Action being then commenced at the Inferiour Court at York by s^d Sheppard against yor Petitioner, Judgment was rendred for the pl^t for the possession of Land afores^d: By reason of the Liberty given by the selectmen as afores^d: as also because y^e Town Grant to Crockett could not then be found. now yor Petitioner hath what is good Testimony, as also a Copy of the Grant & Return which proves the Land to be theirs. with a Declaration from the select men of their Error, in Sheppards Imposing on them in that Grant on which Grounds yor Petitioner commenced an Action at York Court last past for said Land, where he made it clearly to appear to be his Just Right, and had a Judgment for it. Sheppard appealed to the Snperiour Court held in Boston the seaventh of may last, where the action was Barred by reason of the former Judgment and Costs allowed Sheppard. Now yor Petitioner being the True and Rightful owner of sd Land, and having disbursed a Considerable sum of money to purchase a just & honest Title, and the Judges being of opinion that the Judgment bars yor petition^r: Right

Yor Petitioner humbly Prays That yor Hono^{rs} will Relieve him in the premisses, and that the Judgment recovered by Sheppard against him (in 94) may not Barr him because it was fraudulently obtain^d: and the Book of Records taken away by The Indians, and yor Petitioner Constantly obliged to live in a Garrison and to work hard to maintain his Wife and seaven Children and that the sd Sheppard has twenty four acres instead of ten, as is Evident: Yor Petitioner humbly hopes this Great and General assembly will Impower him to sue for his Land, and order the Accon to proceed; and suspend the Execution for Costs against him, or will give him such other Remedy as to yr Justice shall seem meet.

So yor Petitioner with his Family may have just Cause to pray &c^a

NATHANNEL KENE." — *Mass.*

Archives, vol. 40, p. 858.

This petition was read, in the House, on the seventh of June, when the following order was passed thereon and sent to the Council, for concurrence: —

* This is the abrupt ending, but there is no indication that any other answer was made.

† This was followed by the words "for himself & Robert Elliot of Portsmouth in the Province of New Hampshire Esq^r," which appear to have been cancelled.

"Ordered That a Hearing be Granted, on this Petition upon the second wednesday of the next Session of this Court the above mentioned Shepard to be notified thereof, and served with a copy of this Petition, by the Petitioner, & And * That Execution, for Costs, against the Petitioner be suspended, until the end of the said next Sessions." — *Ibid.*, p. 859.

On the eleventh the petition and order were read in Council and the latter not agreed to, but the order which constitutes this chapter was substituted therefor, and being sent to the House on the same day was read and concurred in, and consented to by the Governor.

For further proceedings on this head, see chapter 147, *post*.

Chap. 9. This chapter is from council records, vol. VIII., p. 200. It has not been found in the archives.

For an account of the work upon which the carpenters were engaged for whose payment provision is made by this chapter, see the note to resolves, 1705-6, chapters 67 and 93.

Chap. 10. This chapter is from archives, vol. 71, p. 226. It is recorded in council records, vol. VIII., p. 201.

On the last day of the final session of 1705-6, an order was passed in Council, apparently in furtherance of the will of the Legislature, as expressed in chapter 67 of the resolves of that year, which is thus recorded:—

"April 12, 1706. Ordered. That the Secretary and the Commissary General be a Committee to provide the piece of Plate granted by the General Assembly as a present to Col^{le} Römer her Maj^{ty}'s Engineer within this Continent.

J: DUDLEY." — *Exec-*

utive Records of the Council, vol. 4, p. 276.

This project seems also to have failed from Römer's invincible objection to receiving any gratuity whatever. It was thereupon decided to offer to young Römer, not as a gratuity but as a reward for services rendered, a sum equal to what had been proposed as the sum of the gratuities to be tendered to both.

This resolve being passed in the form in which it appears in this chapter, young Römer had no scruple against receiving the amount allowed, and accordingly he was paid † upon a warrant which, July 18, 1706, the Governor and Council ‡ ordered to be drawn therefor upon the province treasurer.

Chap. 11. This chapter is from archives, vol. 63, p. 14. It is recorded in council records, vol. VIII., p. 202.

The Flying Horse, the sloop in which Vetch made his voyage eastward, sailed for Plymouth as soon as it was learned by her owners and Vetch that she was suspected of having been engaged in illicit trade. She was pursued by Captain Calley, the representative from Marblehead, and captured, together with the sloop Resolution, which had followed her to Plymouth to take off her cargo. See the letter of John Winthrop to his uncle, Governor Fitz-John Winthrop of Connecticut, in the note to chapter 14, *post*, in which he states that this capture was first proposed by the representatives. See, also, chapter 17, *post*, and note.

For the particulars of Vetch's conduct which led to the order which constitutes this chapter, and for subsequent proceedings against him, see note to private act, number nineteen.

Chap. 12. This chapter is from council records, vol. VIII., p. 202. It is preserved in archives, vol. 71, p. 223.

The apprehension both in New York and Boston of danger from the French fleet which was ravaging the English West-India islands in the spring of 1706, the defensive works which were thereupon begun in and about the city of New York, and the purchase of ammunition, and the other military preparations made in Massachusetts, are described in the note to chapter 2, *ante*.

Although the contemplation of formidable naval hostilities by France appears to have been seasonably known in England (which knowledge may have conduced to the liberal response by the queen to the legislative memorial § asking for a supply of cannon, etc.) it would seem that the danger was not so definitely anticipated in the colonies. From the beginning of the war until the autumn of 1704 depredations upon Anglo-American commerce had been made chiefly on the high seas, by privateers under the French flag or by single men-of-war acting as convoys to French merchantmen to and from the Windward Islands, and Port Royal, in Acadia; but the rumor, in October of that year, that Duquesne, ¶ with a fleet of ten men-of-war and two bomb vessels, was expected at Martinique, where two light frigates of his squadron had already arrived, induced merchants ¶ of Massachusetts engaged in the West-India trade to urge Governor Dudley to take measures for the release of the large number of English prisoners of war on that island,—a number which it was likely would soon be greatly increased. Before advice could be received from England upon the subject of this application by the merchants, which, on the recommendation of the Council, Dudley had transmitted to the Lords of Trade, the cartel described in the note to chapter 15 of the resolves of 1705-6 was availed of to obtain the relief sought. Meanwhile, to lessen the chances of the capture of prisoners at sea, and at the same time to reduce the havoc on English vessels, and prevent the enemy from preying on the cargoes

* *Sic.*

† Mass. Archives, vol. 122, p. 281.

‡ Executive Records of the Council, vol. 4, p. 294.

§ Resolves, 1704-5, chapter 40, note.

¶ Boston News-Letter, No. 30. See note to resolves, 1705-6, chapter 109.

¶ October 9, 1704. Executive Records of the Council, vol. 4, p. 91.

of English merchants and fishermen, the Governor and Council resorted to some expedients which they had found necessary at the beginning of the war but which had been discontinued when it appeared that the danger of invasion from Europe was not imminent. One of these was to protect the fisheries by the fitting out a sloop with thirty men, to guard the fishery "for their first Fare, and until the coming of the next General assembly." * This was ordered early in April, 1705. The other was the laying an embargo in October following "on all Merchants Ships and Vessels bound to Barbadoes, or the Leeward Islands, that they may have the benefit of the Convoy of Her Majesty's ship the Deptford, "none to be permitted to saile before her without special Licence." †

The following proclamation for an embargo was accordingly issued and published in the News-Letter of November 5, 1705:—

"By His Excellency **JOSEPH DUDLEY** Esqr. Captain General and GOVERNOUR in Chief, in and over Her Majesties Province of the *Massachusetts-Bay* in *New-England*, and Vice-Admiral of the same.

A PROCLAMATION,

For an Embargo on Ships and Vessels bound to *Barbadoes*, and the *Careby* Leeward Islands.

Whereas Her Majesties Ship Deptford, Captain Charles Stucley Commander, is fitting and making ready speedily to Sail to Barbadoes,† and from thence to proceed to Salt-Tertidos, to Guard the Ships designed thither to lade Salt for carrying on the Fishery.

I have therefore thought fit, by and with the Advice of Her Majesties Council, to Order an Embargo upon all Ships and Vessels Outward Bound for Barbadoes, or any of the Careby Leeward Islands; And that none be permitted to Sail thither without my special Licence; until Her Majesties said Ship Deptford be made ready, and then to attend her and take the benefit of a good Convoy.

And all Officers of the Custom's Naval and Impost Officers, and Commanders of Castles and Forts within this Province, are hereby Commanded to take notice of this Proclamation, and Conform themselves accordingly.

Given at the Council Chamber in *Boston*, upon *Wednesday* the 30th § of *October*, 1705. In the Fourth Year of the Reign of our Sovereign Lady *ANNE*, by the Grace of *GOD*, of *England*, *Scotland*, *France* and *Ireland*, *QUEEN*, Defender of the Faith, &c.

By Order of His Excellency the Governour,

J. Dudley

with Advice of the Council,

Isaac Addington, Secr.

GOD Save the *QUEEN*."—No. 81.

Until the date of this embargo the Province Galley and the Deptford had been kept busy in defending the harbors, the fisheries, and the coastwise trade, and some ships of the royal navy had done similar service along the coast east and south of New York; but the fishing season being past, and the danger of navigation on this coast in the winter being such as to remove any reasonable apprehension of invasion by a foreign fleet, or

* Executive Records of the Council, vol. 4, p. 164. One of the articles of advice to the Governor by the representatives in the resolve of March 20, 1703-4, chapter 100, was "That the Fishery and Coasters may be guarded with a Sloop or two suitable for their Security."

† Executive Records of the Council, vol. 4, p. 232. Cornbury had proclaimed an embargo in New York in the preceding June. The proclamation of the former embargo in Massachusetts has not been found, but its substance is shown in the following entry in the executive records of the council:—

"March 20, 1702-3. His Excellency being informed, that a considerable number of Frenchmen from Cannada are lately arrived at Port Royal, for the manning out of Privateers, to infest and annoy this Coast, and that two private Men of War are lately fitted and set forth from that place, to make spoiles and depredations upon her Majesty's subjects and their Estates.

Advised. That his Excellency emit a Proclamation for laying an Embargo upon all outward bound ships and Vessels until further order.

That the Ship Greyhound Capt^d Andrew Wilson Commander be forthwith taken up; equipped and fitted out on her Majesty's service, for Guarding of the Coast and the securing of Navigation.

That Jeremiah Dummer Esq^r and the other owners of the s^d Ship be desired forthwith to prepare and fit the s^d ship for the sea and to direct the working upon her to morrow if need be.

That Andrew Belcher Esq^r be directed to victual the s^d Ship, and to put in provisions for seventy Men for the space of one Month."—Vol. 3, p. 120.

A year later the representatives advised "That the Embargo be minded" (resolves, 1703-4, chapter 100); but on the fourteenth of September following it was ordered to be "released and taken off."—*Ibid.*, vol. 4, p. 67.

‡ By the News-Letters of December 10, 17, 24 and 31, 1705, it appears that the fleet under convoy of the Deptford was advertised to sail on the twelfth, but that on the seventeenth and twenty-fourth it was lying windbound at Nantasket and that on the twenty-sixth it sailed. The same paper, under date of March 25, 1706, reported that a large ship believed to be the Deptford had been seen going into Barbadoes; and again, on the first of April, that she had arrived there "with the vessels under her convoy all safe." On the fifteenth this last report was confirmed, save that Barnes, in a sloop, had been "taken and carried into Martinico." The date of the Deptford's arrival out was given in the News-Letter of the sixth of May as "the latter end of January;" but in another place it was stated that the attack of the enemy on Nevis had occasioned an embargo on the return fleet so that Captain Stucley was obliged "to leave them behind." Finally, the same number of the News-Letter contained the announcement of the arrival of the Deptford at Boston, on Thursday, the second of May, after "about a month's passage."

"May, 24, 1706. Capt. Stucley arrives from Barbados in the Deptford, 3 weeks passage; was not suffer'd to bring the Fleet with him, neither can they go for Salt; but are embargoed at Barbados. This much fear'd that Nevis is Taken."—*Swett's Diary*, vol. 11, p. 161.

The fleet returned to Boston unexpectedly on Saturday, the fifteenth of June, causing a great alarm, it being taken for d'Iberville's hostile squadron.—Boston News-Letter, No. 113, and letter from John Winthrop in note to chapter 14, *post*.

§ *Sic*: a mistake for thirty-first.

depredations by pirates,* it was felt that the Deptford might safely be spared for a convoy.

The active operations for defence, commenced when the report of the designs of d'Iberville to attack the northern colonies had been confirmed, are described, in part, in the note to chapter 2, *ante*. The Governor, in his opening speech to the new Assembly this year,† not only dwelt upon the danger to be feared from this quarter, and the preparations he had made to resist an attack, by putting the militia on the seacoast in readiness to move to the assistance of "any oppressed part," and by provisioning the Castle and strengthening the garrison, but he added the following recommendation:—

"... There is some Thing further necessary to be done for the security of this Town at the Batteries & else where, as well as at Salem, Marblehead, and Cape Ann, Which I shall desire you forthwith to enter upon, The Season of the Year being far advanced, and proper for the Enemy to look this Way. . . ." — *Council Records*, vol. VIII., p. 191.

This recommendation of the Governor seems to have been immediately taken into consideration by the House, who appointed a committee to report what action should be taken thereon.

On the third day of the session the Council passed the following order, proposing a joint committee upon the same subject:—

"May ult. 1706./. In Council./.

Ordered That Elisha Hutchinson, Samuel Sewall, John Phillips John Walley, John Higginson & Samuel Legg Esqrs be a Committee of the Board, to joyn with a Committee of the Representatives to consider what is requisite to be done for the necessary Fortifying and providing for the present defence of the sea Coast and In-land Plantations against the Insults of the Enemy, in this time of common danger; The Enemy being very powerful at this time in america; And to make their Report with all speed." — *Mass. Archives*, vol. 71, p. 212.

This order was immediately sent to the House, for concurrence, whereupon it was returned with a message that the House "had a Committee already out to consider of what"‡ the Council proposed. Upon this the Council resolved, "That, notwithstanding the Message from the other House, the Committee of this Board do proceed, and sit too morrow by eight in the morning, And Report their Opinion on the heads proposed."§ On the next day the committee of the Council made the following report:—

"Whereas wee the subscribers were a Comitte appointed by his Excellency & Council to Consider what was requisite to be done for the necessary fortyfying & providing for the present defence of ye Sea Coast & Inland plantations against the Insults of the enemy in this time of Comon danger The enemy being at this time very powerful in America & to make a Report with all speed

In obedience to said order haveing considered the premises are of opinion & Humbly offer to yr Excellency & this Board

That Beacons bee speedily erected at Boston point Alderton Cape Anne marble head & other sutable places to be fired vpon the first discovery or sufficient notice of ships or vessels that may bee thought to bee enemy"

That spye boats bee kept out to cruise between Cape Cod Cape Ann & ye Isle of shoals to discover the Approach of the enemy to give notice to the nearest Beacon & then If ye wind bee sutable with all speed to sail for Boston or other port to give notice to his Excellency

That a small vessel, a very good Sailor, be sent towards port Royal to make discovery & gaine Intelligence wch may bee done by meeting with some small french vessel or surprizing some famly ashore

That the Govern^t at Connecticut be forthwith sent to for more then ordinary Assistance the occasion being such as requires it. & especially for assisting ye towns in Hampshire

That two feild peices or more be provided in every Town especially vpon the frontiers That the frontiers bee strengthened & that they bee ordered to repair to there garrisons & bee very carefull in in|| keeping out constant scouts

That the Battery^s in Boston Charlestown Salem & marble head bee forthwith put in good Repair & an Addition of gnns for Salem & marble head if to be had

That If there be a sutable place about Cape Anne to give a good prospect to the Sea There bee men to look out & keep watch & ward & a shelter made for them

That the Battery at the north end of Boston bee carryed out about 80 foot farther & made about 40 foot Wide

That there bee Att least 16 feild peices for Boston

That there bee Six feild peices for Noddles Island & men appointed to goe over to hinder the enemys landing in boats there wch might give them advantage of Booming the town

That floots bee in readiness to Transport men to Noddles Island

That boats bee in readiness to Transport souldiers to the Castle

That fire vessels be provided to bee disposed as may be most likely to bee seviceable

* "Oct. 27, 1705. The Winter now advancing, and the season such that it will be difficult and hazardous for any Privateers to lay upon this Coast, and for Her Majty's ship the Deptford assigned to this station for Guarding of the Coast, any longer to keep out. The Council unanimously requested his Excellency, that her Majty's said Ship Deptford might be a Convoy to the Outward bound West Indies Fleet, and from Barbados might attend our ships designed for Salt-Tertudos to lade salt for the supply of the Fishery, and returne with them to this Port early in the spring, and that he would please to give orders accordingly." — *Executive Records of the Council*, vol. 4, p. 229.

† On the thirtieth of May.

‡ *Mass. Archives*, vol. 71, p. 212.

§ *Ibid.*, p. 213.

|| *Sic.*

That vessels or suitable frames of Timber be contrived to sink in ye narrowest place of the Channel near the Castle *

That the Castle bee finished by doing those things that Capt Rednap proposes

That Brest works bee made in Boston in all places Capable where the enemy may land

That the fortification at the neck be repaired & Guns for the clearing the Lines

That guns bee planted in all convenient places to hinder the enemys Landing in Boston

That there bee especial care that the sev^r flamyins in Boston be provided with water Buckets Swabs Ladders & all things necessary to quench fires

That a Stock of 6000 Bread be laid in at Salem

That Brest works be cast vp at Salem in all suitable places to prevent the enemys Landing

That 4 Thousand Bread bee laid in at marble Head

That a suitable quanty of Bread may bee sent to or near the frontiers to supply such souldiers as may bee sent to them when Alarmed by the enemy

That Gloster have a Brest work & Three ffield peices mounted to vse as there may bee occasion

That Hull have Three ffield peices to move & vse as there may bee occasion

That ye french prisoners in Boston bee secured & not suffered to goe at Larg nor any other yt are at other Towns to Come to Boston without his excellencys special order or leave

ELISHA HUTCHINSON

SAMUEL SEWALL.

JOHN PHILLIPS

JOHN WALLEY

JOHN HINGINSON

SAMLL LEOG." — *Ibid.*, p. 216.

June. 1. 1706.

This report was immediately read, "and unanimously approved as necessary to be forthwith put in Execution," and this vote was sent to the House for concurrence, where, on the same day, the report and vote were read a first time, and again on the fourth, on which day certain proposals from the House "for the better Security & Defence of the Province in this Time of extraordinary Danger," † which had been sent to the Council for concurrence, were read at the Board and left for further consideration. The two branches failing to agree in the plans proposed by them, respectively, the Council, on the fifth, moved for a conference. On the same day the House, by message, signified its willingness to attend a conference, "but desired it might be defer'd till After-noon," at which time, by direction of the Governor, "Mr Speaker & the House accordingly came up to the Council Chamber, Where the Conference was managed between the Houses upon the Articles proposed referring to the Defence of the Province." ‡

On the seventh, Captain John Redknap, the engineer, presented to the Council the following memorial and estimate:—

"Boston June ye 7th 1706

Ordered by His Excellence the Governour to Lay before this Honorable Board, A Report of what Should be thought Necessary to be done, as to y^e Fortifying our Selves att this Juncture with an Estimate of the Same—

It is thought very Necessary the Carrying out of the North Battery 80 Foot In Length and 40 Foot in Breadth it would be of very great use, Judged will Cost : 250 Pounds

For Plank Sleepers Spieks and other Necessarys for y^e Repairing the South Battery : 65 Pounds

Att Nodles Island for Raising Two Batterys for Ten Gunns upon Field Carriages that they may be the more Redily Transported from place to place as ocaion shall offer: 60 Pounds

Fort Ann att Salem for Repairing the old Works & Raising Some thing more that is new, Judged att 70 Pounds

For the Necessary Defence of Marblehead. 30 Pounds

Att Cape Ann it would be very Necessary to have a Battery of 4 or 6 Gunns upon Suitable Carriages which is Judged to be most Servisable the Scituation of that Place Considered

To fitt 2 or more Sloops for Fire Vessels to be In a Readiness upon y^e Approach of an Enemy; as Likewise a flat Bottom Boat to be att Castle William, For y^e Ready Transporting of 50 or 60 Men from Dorchester Neck to the S^d Castle upon any ocaion which will be of Absolute Necessity : 200 Pounds

Boston Neck which hath had heretofore something of a Line Cast up, Judged att present very Necessary to be Fortified, Not onely for y^e Security of the Governours Person but Several advantages which may be Drawn from thence,

what I have to bid is Expedition for the Season Slides away

J REDKNAP

Her Majestys Engenier
for the Continent of America

Expence —

North Battery	£250
South Battery	65
Nodles Island	60
Salem	70
Marblehead	30

* The Council sent a message to the representatives as early as December 29, 1704, communicating the information that there was an opportunity to purchase the hull of a large ship, the *St. Joseph*, for the sum of one hundred pounds, she being suitable "to sink for stopping the channel;" and on the twenty-seventh of February following, they sent another message to move the House to purchase said hull. No further action, however, appears to have been taken at that time. — *Council Records*, vol. VIII., pp. 98 and 109.

† *Council Records*, vol. VIII., p. 194.

‡ *Ibid.*, p. 195.

Cape Ann	200
Fier Ships	200
Boston Neck &c	200
	<hr/>
	£675

M^d This charge is besides Labour, which will be near the same sune.
In Council. 7^o June. 1706-7. Read & sent down." — *Ibid.*, p. 220.

On the eighth, a committee of the Council was sent to the representatives with a message "to enquire of the House what Resolutions they had come to referring to the Fortifications, and Provision for Defence of the Province; The Messengers returned Answer, that the House were upon it."*

The House, also, on the same day "Ordered That a Message be sent up to the Board that this House have Considered Captain Redknap's Proposals, and Refer themselves, to their former vote, Pass'd the 4th inst: as their answer thereto except, the two articles of Providing fire-ships, & a flat bottom'd Boat, which shall be further Considered."†

On the tenth, the inhabitants of the town of Boston, in town meeting assembled, passed the following votes:—

"Voted that a Committee be appointed to Consider of what Shall be needfull to be done about Fortifieing the Town for its defence against the Enemie.: And that the S^d Committee do make application to his Excellency the Governor for his Approbation therein. And to make report to the next Town meeting of what they Shall thinck proper to to ‡ Lay before the Town relating thereunto.

Elisha Cook Esq^r, Elisha Hutchinson Esq^r, Penn Townesend Esq^r, Coll^o Samuell Checkley & Cap^t Oliver Noyes are chosen to be of S^d Committee

Voted that the S^d Committee do also make report to the next Town Town^t meeting of what they Shall thinck proper to be done for Securing the Powder within this Town." — *Boston Town Records*, vol. 2, p. 282.

This was succeeded by another town meeting, two days later, of which the following is the record:—

"At a meeting of the Free holders and other Inhabitants of the Town of Boston duly qualified and warned According to Law, being Convened at the Old meeting House in Boston aforesaid the 12th day of June Anno Domⁱ: 1706 did then and there agree, conclude & declare as followeth Viz^t.

Moderator Elder Joseph Bridgham to be moderator for this meeting

That whereas the Committee appointed by the Town (at their last meeting on the 10th of June curr^t) to consider of what Shall be thought needfull to be done about Fortifying this Town for its defence against the Enemie, And to make Application to his Excellency y^e Gov^r for his Approbation therein, and to make report to the next Town meeting of what they think proper to Lay before the Town relating thereunto, The w^{ch} Committee haveing now Signified to the Town that they haveing accordingly applied themselves to his Excellency The Governor who was pleased to Signifie unto them his Free Approbation and Consent that the Inhabitants of Boston Should proceed to Fortifie the S^d Town for their better Secenrity, according to the proposalls by them made, and now presented to the Town meeting and are as followeth Viz^t.

A projection for the carrying out the north Battrey 120 foot in length and forty foot in breadth & 18 foot to high water marke Viz^t.

To Timber	£: 200
Planck for the platform	£: 20
Spikes & Iron worke	£: 30
Timber for y ^e Parepit	£: 50
Labour & Some Stone	£: 150
	<hr/>
	£: 450
Repaireing the South Battery in the Platforms and Carryages	£: 100
For a Fortification at the neck	£: 200
Recruniting the field Carryages	£: 20
Sundry disbursments	£: 30
	<hr/>
	£: 800

After Some debates at the S^d Town meeting ab^t the premisies, they proceeded to pass the following Votes Viz^t

£: 1000 Voted that the Sum of one Thonsand pounds y^e moneys be Assessed on the Inhabitants and Estates within this Town to be layd out in Fortifieing the Town in manner afores^d

Voted that the Town will choose Seven persons to be a committee to manage the S^d affaire.

Committee for Fortifica Voted the Thanks of this Town to the S^d Committee for what they have already done for the Town ab^t the premisies and that they Viz^t Elisha Cook Esq^r, Elisha Hutchinson Esq^r, Pen Townesend Esq^r, Coll^o Samuel Checkley, and Cap^t Oliver Noyse, to gether with Thomas Brattle Esq^r, and Cap^t Timothy Clark, are the persons nominated and chosen to be the Committee to manage the affaires of the Fortifications as afores^d

Voted that the S^d Committee may at their discretion improve Some part of the afore-said Sum, in preparations to make Some defence upon Noddles Island.

Voted that the Said Sum of One thousand pounds, and the Sum formerly granted by the Town for defraying the other necessary Charges arising within the Same be Speedily Apportioned and Collected, and that the first of S^d money So collected Shall be improved

* Council Records, vol. VIII., p. 197. † Mass. Archives, vol. 71, p. 222. ‡ *Sic*.
§ The News-Letter of the seventeenth of June reports that this money is to be applied "ac-
cording to such Directions as shall be given by His Excellency." — No. 113.

for the S^d Fortifications, and that the S^d Committee are desired to be Speedy in their Endeavours to Set ab^s S^d worke." — *Ibid.*

By the committee's report, ratified at this meeting, it would seem that the approval of the Governor and Commander-in-Chief had been obtained before the plan proposed by the committee was submitted for confirmation. The following proceeding took place the same day in the council chamber: —

"A Committee of the Town of Boston attended his Excellency in Council to Acquaint him that the Town had Consented to grant One Thousand Pounds towards the Repairing & Setting in Order the Fortifications within the same, And a Vote was drawn up for Confirmation of the said Grant, & sent in to the Representatives to be pass'd by that House in the first Place." — *Council Records, vol. VIII., p. 201.*

The confirmatory vote referred to as having been drawn up in the Council and sent to the House is the resolve which constitutes this chapter, as printed on page 108 of the first volume of the Province Laws.

Upon receiving the draught of this vote, the House having taken one day to consider the subject passed the following order: —

"In the House of Representatives June 13: 1706

Ordered That a Message be sent up to the Board, That this House are of Opinion, That the Law well Provides, That any Town may with His Excellency's approbation, Raise, & Lay out any sum or Sums of money, for their own fortification, & Defence, without any further allowance or sanction from this Court, as hath been frequently Practised by diverse Towns in this Province

Sent up for Concurrence.

THOMAS OAKES Speak^r

Die Vdict. Read." — *Mass. Archives, vol. 71, p. 225.*

The Council, thereupon, having considered the message of the House, unanimously passed the resolve, together with the preamble, beginning "Whereas the town of Boston," and sent it to the House, for concurrence, where it was immediately concurred in, and consented to by the Governor.

The fate of the proposals (no copy of which has been found) that the House submitted to the Council is shown in the following entry: —

"June 14, 1706. The Proposals offer'd by the Representatives^{es} for the better Security & Defence of the Province in this Time of extraordinary Danger sent up for Concurrence, And Read the fourth of June Instant, & left to further Consideration, Having been Read several Times since & Debated, And now The Question being put for Concurrence, It was carried in the Negative." — *Council Records, vol. VIII., p. 203.*

The Governor, as commander-in-chief, now ratified the selection of the town committee by issuing to them the following commission and instructions: —

"Province of the

Massach^{ts} Bay./ — By his Excy Joseph Dudley Esq^r Captain General and Govern^r in Chief &c

Whereas I am Informed, That her Majesty's good Subjects of the Town of Boston, Upon the Representation of the Imminent danger of an Attack from her Ma^{ty}s Enemies the French, and the despair the Fortifications within the s^d Town are fal'n into, Have voluntarily granted, and Consented to the raising of a Sum of money, to be Applied with Allowance and Direction from myself, for putting the same into a posture for her Ma^{ty}s service and the defence of the said Town And haveing Trusted Elisha Cooke, Elisha Hutchinson and Penn Townsend Tho: Brattle Esq^s Lt Col^o Checkley, Capⁿ Tim^o Clarke & Captain Oliver Noyes, wth the care of laying out the s^d money accordingly

I do therefore hereby direct and Authorize you the s^d Elisha Cooke, Elisha Hutchinson and Penn Townsend, Tho: Brattle Esq^s Lt Col^o Checkley, Capⁿ Tim^o Clarke, & Capⁿ Oliver Noyes to purchase procure and cause to be laid in place, the necessary Materials to Agree with workmen & Labourers, & to Oversee the repairing and makeing up the s^d Fortifications for her Ma^{ty}s service &c. according to the Projection made by Captain Redknap her Ma^{ty}s Engineer./ —

Given under my hand at Boston the Fourteenth day of June 1706./ —

J. DUDLEY.

To Elisha Cooke, Elisha Hutchinson & Penn Townsend Esq^{rs} and Thomas Brattle Lt Col^o Checkley, Capⁿ Timothy Clarke and Capⁿ Oliver Noyes." — *Hutchinson's Papers, vol. 3, p. 431.*

The vote of the representatives affirming the authority of the town to raise money for defence seems to have encouraged the inhabitants to make a further appropriation for an additional fortification and the incidental improvement at Merry's Point* for the benefit of the town, as shown by the following entry in the town records: —

"At a meeting of the Free holders and other Inhabitants of the Town of Boston duly Qualified and warned according to Law, being convened at the Town house the 21th day of October 1706, did then and there agree conclude and declare as followeth Viz' . . .

Voted that the Inhabitants of this Town will proceed to grant a further Supply of money for the Scenreing & finishing the wharffs already begun and placed at Merrys Poynt, and for the Fortification to be placed there: And also for some Additionall wharfe to face the old wharfe where the guns formerly Stood, in order to improve the Same for an income to the Town.

Voted That one Thousand pounds money be Assessed on the Inhabitants and Estates within this Town to be laid out on y^e Wharffs and Fortification at Merrys Poynt, & y^e same to be Apportioned wth y^e next T Rate." — *Vol. 2, p. 283.*

Long before the inhabitants of Boston voted these last supplies for completing the harbor fortifications in front of the town the great emergency which prompted both town and province to active measures for defence against foreign invasion had passed, by the death of

* Near the site of the present North Battery wharf. See Shurtleff's Topographical and Historical Description of Boston, 3d edition, p. 107.

d'Iberville. This occurred at Havana, July 9, 1706, on board the ship of war "Le Juste, which he commanded, on the eve of an expedition against Jamaica."*

Chap. 13. This chapter is from archives, vol. 58, p. 245. It is recorded in council records, vol. VIII., p. 199.

In 1653-54 the town of Springfield passed the following vote, appropriating a tract of land on "Chicopee Plain," which lay on the western side of the Connecticut River:—

"March y^e 13th 16⁵³/₅₄."

Whereas there hath bin a psell of land over y^e grate river at y^e lower end of chik-kuppy plaine reserved for y^e Townes use, & yet notwthstanding some of y^e sd land hath bin disposed off to pticular psons so y^t there is now but about thirty acres thereof left. & some psons desiring y^t y^e sd thirty acres may also be disposed off & distributed to severall psons The Towne took it into consideration whether to yeild thereunto, & y^e Major pt of y^e Towne for several reasons doe resolve not to dispose of y^e sd Thirty acres of land to any pticular pson or psons as their ppriety; But doe hereby order y^t y^e aforesd thirty acres of land at y^e lower end of chik-kuppy plaine over y^e grt river shall be reserved in y^e Townes hands, as y^e Townes land for y^e Townes use, either for y^e helping to maintaine a scholemaster or ruling Elder or to help beare any other Towne charges according as it shall hereafter be concluded on But not to be disposed off frō y^e Townes ppriety or appurtenance And further it is ordered y^t y^e select Townsmen shall have liberty to let out y^e sd land for yeare or yeares to bring in some yearly rent to y^e Towne if they can find any to take it."—*Springfield Town Records, vol. I., p. 94.*

A portion of this land which had been granted for private uses November 15, 1655, was resumed by the town about three years later, on the ground that it had not only been forfeited by the grantee but that before his grant it had been "otherwise disposed of" by vote of the town. The vote for resuming the land is recorded as follows:—

"At a Towne meeting ffebr 7th 1658[-9]."

There being some consideration about y^e Ten acres of land in chik-kuppy plain over y^e grt River w^{ch} was granted to Sam^l Terry about three yeares agoe: It appearing by an order made in March 16⁵³/₅₄ that y^t land was otherwise disposed of & y^t it ought not to have bin given away: & besides y^e land being otherwise forfeited: The Towne conclude y^t grant void & doe reasume y^e land to its former use & appointmt for the Townes use according to y^e afore recited order.

And y^t Sam^l Terry may have noe wrong by any Rates w^{ch} he may have p^d for y^e sd land, it is ordered & agreed y^t what Rates he hath p^d that hath bin raised on y^e sd Land, The Townsmen shall take notice thereof, & pay y^e same back againe to Sam^l Terry."—*Ibid., p. 172.*

Compensation was subsequently made to the grantee, as follows:—

"March 13th 16⁵³/₅₄."

There is also granted to Samnell Terry two little peeces of Land above the brook at the head of chickuppe plaine on the west side of the great River wch parcells of Land conteyne Seaven Acres more or less: . . .

Memorandum that the above mentioned grants of land to Samnell terry is upon condition that he doe quitt & release all or any right wch he pretends to have in any Land wch lyes toward the lower end of the said Chickuppe playne wch land he pleaded to have been granted to him by the Plantation."—*Ibid., p. 207.*

From the mention in the above vote of 1653-54 of the support of a school-master as one of the purposes to which the income of this land might be applied it is not improbable that a school or schools were established soon after that date,† and if so, they continued, probably, until some time before March 30, 1675, when, at the County Court held at Northampton, the town was presented "for want of a Scoole for teaching & Educateing of Youth in Reading & writing, who are to answer for it at y^e next Corte at Springfield;"‡ but no record showing that a schoolhouse was erected has been discovered§ until the following vote:—

* "Nonvelle Biographie Générale," etc., tome 30, p. 640.

† An entry in the town records shows that, as early as 1677, William Madison, school-master, was allowed "Admittance & entertainment . . . he taking three pence of those 4th weeke whom he teaches to read English, & four pence 4th weeke of those he teaches both to read & write, as also four pence of those whom he teaches writing wholly; the Parents or Persons being to allow noe more: But the Town for this yeer as an encouragement to him in the work doe agree to allow him y^e Rent of y^e Town land In Chickuppy."—*Vol. III., p. 91.*

At a town meeting held April 10, 1678, "It was voted & Concluded to give to m^r Daniel Denton twenty poundes Salary for his encouragement in the worke of a Schoolmaster for the present yeer he continuing in that worke y^e terme of an whole yeer or in Case It should so fall out y^t m^r Denton cont not that worke the winter season, then the vote of the Inhabitants was to give him twelve poundes, & to allow him time to Plant & dresse two Acres of Indian Corne, in Case he cant provide it to be done for him for his money

In this worke y^e Parents & masters of such as send y^r children or servants, being to allow to y^e Towne according to y^t manner of their allowance to the Schoolmaster the yeer past."—*Ibid., p. 96.*

‡ Hampshire Probate Court Records, vol. I., p. 163.

§ On the ninth of October, 1678, the town voted "that the watch house to y^e New-meeting house should be, or serve instead of a schoole house; vntil such time as the Towne shal see Cause to order otherwise."—*Springfield Town Records, vol. III., p. 97.* The next January there was paid "to the schoolmaster" six poundes from the town and six poundes ten shillings from "Chickuppl."—*Ibid., vol. II., p. 132.*

Either that year or the next a school seems to have been kept in "Goodman Mirrleke's" house, and in the latter year Mr. Denton was paid ten poundes "for his Labo^r in schoole worke."—*Ibid., p. 138.*

The following entry, dated 1682, seems to indicate the existence of a primary school:—

"[The] Select men agreed wth Goodwife Mirrleke to encourage her [in the] worke of teaching children in ["Training up children in," written above the preceding three words] read that she [receiveth] 34th weeke for every child that she takes to 4th forme [that exce]llent worke for."—*Ibid., p. 159.*

"At a Town Meeting, being a legal meeting: May. 7th 1679:

It was voted & concluded 1st that there should be an house erected for that noble designe & vse of Learning the youth in those so necessary peices or parts of Learning *Videl:* reading & writing.

& 2^d. That this house should be twenty & two foot in Length. & eighteen foot in breadth. & 3^d. That the select men should be appointed. or be trusted to agree wth any meet Person or Persons to frame this said building, & when y^e Town shal have deliberated & determined where to sit it viz. y^e school house, y^e same appointed persons are likewise to finish it or fit it for school vse." — *Ibid.*, vol. III., p. 99.

The record of the action of the selectmen in carrying out the above vote is as follows:—

"June: 2^d: 1679:

At a meeting of the select men, being present: Deacon Benja: Parsons. Jn^o Dumbleton Henry Chapin Jn^o Holyoke,

It having been formerly at a Town meeting proponed to y^e Town, that they would set up a schoole house for the Town, they concluded that such an house should be erected, & appointed the select men to bargain wth any meet person or persons to build such an house for such a Vse: accordingly they have bargained wth Tho: Stebbin Junr, to get timber for such a building & frame it, whose Length is to be 22 foot; & breadth .17. foot: & stud 3 foot & halfe & he the said Thomas Stebbin is to carry the frame to place & to naile the clapboards close on both sides & ends, & to Lath & shingle the roofe, & to make three light spaces on one side, & two lights on one end, & to set up a mantletree. & set up a rung Chimney, & to daub it, & the said Thomas is to have for his worke so done fourteen poundes paid him by the Towne, & in Case it so prove that the said Thomas Stebbin shal have an hard bargaine, It is hereby agreed that he shal have 10^s more of the Town:

THOMAS STEBBINS." — *Ibid.*,

col. II, p. 119.

By the following entry in the town records it would seem that the building of the schoolhouse was not begun, nor its site determined upon, until about two months after the record of the contract between the selectmen and Stebbins:—

"At a Town meeting. Aug: 4th: 1679:

At this meeting It was voted & concluded that the schoole house shal be set som where in the lane going to the vpper wharfe, the select men to agree about & determine the particular place." — *Ibid.*, vol. III., p. 100.

The lane referred to was what is now Cypress Street; so that the schoolhouse was about half a mile distant from the meeting-house.

Towards the end of the winter of 1680-81 it appears that it had been proposed to have the schoolhouse, then unfinished, removed to the centre of the town. Upon this proposition the inhabitants in the town meeting on the first of February passed the following vote:—

"It is further ordered y^t iff any persons appear y^t will Remove y^e Schoole house without any charge to y^e town & bring it into y^e Middle off y^e town & set it in such place as y^e select men appoint without dammifying y^e house by y^e 1st off March next ensuing they shall have liberty to doe it But iff no such persons appear the house shall bee finished (& Continue where it is now) by y^e Select men." — *Ibid.*, p. 103.

It does not appear that the schoolhouse was moved, but, by the following entries in the town records, it seems that the school was removed to near the centre of the town, and that a dwelling-house, with the land upon which it stood, was purchased for that purpose and the old schoolhouse let for a dwelling-house:—

"Octo: 21: 1685:

At a Town meeting, warned to consider about the purchasing of Edwards Stebbins his house for a schoole house &c:

It was voted & agreed that the select men should treat wth Edward Stebbins, & With Sam^l Ball vpon whose Land the said house of Edward Stebbins standeth, for the purchasing of the said house & the Land w^{on} it is, & to know at what termes the said house may be purchased & to make a report y^{of} to the Town." — *Ibid.*, p. 133.

"Novemb^r: 27: 1685: At a Town Meeting to consider & issue about the purchasing of the house that Edward Stebbins built vpon the Ground he had of his Broth^r Sam^l Ball, w^{ch} house s^d Stebbins Sold to s^d Sam^l Ball:

It was voted & agreed at this meeting to purchase the s^d house Edward built, viz: to purchase it of Sam^l Ball for a School house, & to be kept for that vse, & to give to Sam^l Bal Twenty & five poundes for s^d house, & for the Land w^{ch} is the present way Into s^d house, as now it is fifteen poundes of this sum is to be paid to said Bal this yeer: & the other Ten poundes to be p^d him the next yeer: & the Select men are to issue wth Sam^l Ball about the p^{mi}ses & to draw up the Deed for the Land & the house." — *Ibid.*

"november 12th 1689

the select men haue hired out to Benjamin Thomas the lower roome in the scoole hows at the widow Bals for which he is to a lowe the Towne foure shillings for the first quarter if he stay longer its left to further conserdatyion

also Richard waight is to pay for the use of the other scoole hows at the up end of the Towne five shillings for his living in it till the first of march next he is to repara gratis what may be for his comfort in the meanetym." — *Springfield, Records of the Selectmen*, vol. III.

The first school-master who taught in this schoolhouse appears to have been Mr. John Richards of Hartford, who was engaged by the selectmen to serve for three months. The record of the contract with him is dated May 22. 1683; and for his service the selectmen agreed to see him paid seven pounds, — "one third in wheat & one Third in Pease & one Third in Indian Corne, & as much of this Corne as is not disposed of in this Towne is to be paid at Hartford Landing place."* At the expiration of the quarter, Richards was re-

* Springfield, Records of the Selectmen, vol. III., p. 12.

engaged by the selectmen, in pursuance of authority conferred upon them by vote of the town, * for one year from August 29, 1683, "To Continu in the imployment off a scoole Master to teach Children to read and wright or sciffar or what els is nedfull and be abell to instruct them in as to lerning and educatione."† For this service he was to receive thirty pounds "in these kinds off speeches ffolowing which is to say wheat pease and indian Corne if prouidence do not prevent in equall proportione and one wfailure off any of the to first kinds it is to be mad equivalent To it."‡ The next year a similar contract was made with Richards in which his salary was raised to thirty-six pounds, payable in like manner, § save "that the halfe of this Thirty Six pounds be paid to mr Richards some time the following winter."† In 1686 eighteen pounds were paid the school-master. No record of the keeping of a school in the town in 1687 has been discovered, but the next year the following record appears:—

"The Select men of Springfield haue agreed and Bargend with mr pelatyah glouer to keepe scoole in this Town to instruct and teach al Children as shall be sent to him: to read and write and Cast a count and what may be needfull for Children and he Capable of doing for which pains of his the select men promis to pay him twelfe pounds for halfe a yeare he is to haue that rent of Chicopy land and the rest of his pay in maner as the Town rat is paid and he the saide mr glouer is to begin y^e 3^d day of September in this present year 1688 and so to Compleat sixe months

JAPHAT CHAPIN
THOMAS COLTON
JAMES WARIN^B
JOHN HITCHCOCK
SAMLL BALL
THOMAS STEBBINS
PELATIAH GLOVER." — *Ibid.*

In 1689 it appears, by the records of the County Court held at Northampton in March, and Springfield in September, 1690, that the office of school-master had again been vacant, but that the vacancy was filled in 1690.¶ The new appointee was Pelatiah Glover, mentioned above, son of the minister of that name, as is shown by the following entry in the records of the doings of the selectmen:—

"May: 12: 1690. At a meeting of the Select men the Munday following their choice, according to the vsnal manner: al present

It being comitted to the care of the Select men by the Town at the Last Town Meeting to provide a School master for the Educating the youth of the Towne: Therefore In observance of the Townes Conclusion, The said Select men have Agreed wth mr Pelatiah Glover to teach the children of this Towne to Read & Write & to Learne them Arithmetieke according as any desire & are capable & that for the Terme of a yeer, beginning the yeere from this Ninetenth day of this Instant: & the Select men have covenanted wth him that he shal have the sum of Twenty Eight pounds for his Labor & paines: They also have comended it to him that it be his weekly care to learne the children their Catechisme.

JOHN HOLYOKE
JAPHET CHAPIN
JAMES WARNER
JOHN HITCHCOCK:
THOMAS STEBBINS
PELATIAH GLOVER, Jun

The Scholers are to pay after y^e vsnal manner, & the Town to satisfy the remainder by a Town Rate after the form^r Custome.

mr Glover oferd a paper to the Select January 3: 1690. shewing his willingness to be released from the aboves^d agreem^t The Select men did accept said paper & released him of sd agreem^t." — *Ibid.*

For the three years next after Glover's release no record of the appointment of a school-master has been found, but in 1694 Glover was again appointed to serve for a half year from the twentieth of May, and to receive sixteen pounds therefor. He was succeeded the next year by John Holyoke, who engaged to serve one quarter of a year upon the same salary that had been paid to Glover. This contract, it seems, was to be renewed quarterly until the next town meeting in March; and for the last term "they agreed to give him twenty shillings and the said school-master's pay." The extension of this contract to March (made originally May 25, 1695) was ratified by the selectmen on the third of January.

At a meeting of the selectmen March 23, 1695-6, Joseph Smith of Hadley was agreed with to succeed Holyoke for half a year ending January 14, 1696-7, and to be allowed for his services "seven pounds ten shillings in money, and ten pounds in wheat pease barley and rye in equal proportion." At the expiration of this term Smith was engaged for another quarter, for which he was to be paid "eight pounds money." The next contract with Smith, recorded March 15, 1696-7, is indefinite as to its continuance save that the selectmen agreed that he should receive "eight pound in mony or Corne at mony prisce for a Quarter of a yeare march 31, 1697."¶

On the seventh of June, 1698, the selectmen made a permanent agreement with Smith, which is recorded as follows:—

"It is agreed on and Between mr Joseph Smith and the Select men of this town in the behalf of this s^d Town to keep boath English and Gramer Schoil: as also to lern all Sch^lers that shale be sent for that end boath Writting and Arithmatick and for Recompece for enery quarter as he dos Continue in this our time. forward and from the time as we was Chosen to se payd a Cording to town orders the full and Just sum of eaight pounds Ψ quarter in Cash or Grain at siluer price." — *Ibid.*

* Springfield Town Records, vol. III., p. 116.

† Springfield, Records of the Selectmen, vol. III., p. 13.

‡ *Ibid.* Richards appears to have been paid his "stipend" for both years. — *Ibid.*, pp. 14 and 26.

§ Hampshire County Court Records, vol. 1, pp. 120, 126 and 129.

¶ Springfield, Records of the Selectmen, vol. III.

At a town meeting held on the twenty-fourth of November succeeding this agreement of the selectmen the inhabitants, evidently deeming the settlement with Smith too onerous, passed the following votes: —

"it was voted that the general Court be petitioned unto that this Towne may be freed from keeping a gramer scoole and that they keepe three or foure scoole masters or scoole dames to teach to reade english and the worshiptul Colanell pinchon and Jonathan Burt senyr ar desired to lay the Circumstances before the honored Court of this Towne . . .

noted that m^r Joseph Smith keep scoole till the 14th of February next ensuing and those scolars as hane gone to him to scoole pay toward it and the rest the Towne pay." — *Springfield Town Records, vol. III., p. 268.*

No trace has been discovered of the presentation made by the agents of the town, in conformity with the above vote, of any petition or of any motion, or of any action of the Legislature upon the subject-matter.

By the selectmen's records it would seem that in 1699 Smith was succeeded as school-master by Stephen Hosmer of Hartford. By another entry in the same records, under date of 1701, it appears that in the latter year Nathaniel Chauncy, afterwards minister of Durham, Connecticut, was appointed school-master. On the twenty-seventh of October, 1705, the selectmen engaged Mr. David Parsons to keep the town- or grammar-school for one quarter of a year, for which he was to be paid ten pounds in grain and pease at the following prices per bushel, corn at two shillings and sixpence, rye and pease at three shillings, and barley at three shillings and sixpence, and not to be paid "above one-fifth part in barley." This contract was renewed on the thirtieth of January following for one year, and the salary to be paid was forty pounds. In March, 1706-7, the contract was again renewed, indefinitely, "the school-master to give timely notice of his leaving the school."

There may have been other teachers the record of whose engagement has been overlooked or not made; but the foregoing sufficiently show the continuity of a grammar school in the town proper under a school-master with a stated salary, regularly assessed upon the inhabitants, up to the time of the passage of the order which constitutes this chapter.

The profits of the lands appropriated in 1653 to the maintenance of a school in the town seem not to have been applied to that purpose before the year 1696. Possibly no income may have accrued from them. However that may be, the following vote by the inhabitants appears to have been the first attempt to realize and apply an income from these lands and at the same time to set apart other lands for the same purpose: —

"At a Town Meeting, March, 19th 1696

Voted that the Ancient appropriation of Chickuppy Land on the West side the River be to the maintenance of a schoole in the Town of Springfield. Also voted that the six acres of medow be it more or Less on the East side of the River Lying between the medow of Colonel John Pynchon on the south East & the medow of Edward Stebbins on the North West side be appropriated to the same use & is now granted unto that use, viz. towards the maintenance of a schoole in the Town of Springfield for ener.

Extracted from Springfield records & Compared therewth

ψ J^{no} HOLYOKE

Clerke for sd Towne." — *Mass.*

Archives, vol. 58, p. 246.

This provision seems to have been designed for the support of a grammar school such as the law* required to be maintained in all towns of one hundred or more families or householders. Towns of fifty householders or upwards, also, were required* to "be constantly provided of a school-master to teach children and youth to read and write."

In compliance with the foregoing vote the selectmen nearly a year later executed the following lease: —

"Thess p^{res}nts Testify that the Select men for & in behalfe of this Towne have leased & to farme let the School land at Chickcuppy containing about forty Acres more or less vnto Ensigne Joseph Stebbin Edward Stebbin & David Morgan for the Tearme & space of seaven years next ensuing the Date hereoff on Conditions followeing vizt that the abovenamed Jos: & Edward Stebbin & David Morgan doe well & truely pay or cause to bee paid vnto this Towne The Just sum of Seaven pound five shillings in Marchatable peass Barley Rye & Indian Corne in Equall proportion at The Towne price, every year vntill the lease bee expired, or in default thereof to pay four pound Eighteen shillings ψ anⁿ: in Currant money of this Province, it is further conclud^d & it is the intent of this agreem^t that if it bee for the better conveniency & accommodation of a school in regard of maintenance or better setting of a school master, that then the Towne have free liberty & power to reassume sd Land, & the said Stebbin's & Morgan doe promise to deliver up sd land again, Also they doe engage to make & maintain a good & sufficient fence upon said land, & to leave such a fence on it provided the Towne doe not reassume it into there owne hands before seaven years bee expired w^{ch} if they doe then a reasonable satisfaction is to bee allowed for the fence: in Testimony whereoff wee have herevnto sett o^r hands this 6th March 1696/7:

JOSEPH STEBBIN	}	JAMES WARRINER	}
DAVID MORGAN		LUKE HITCHCOCK	
EDWARD STEBBINS		JO ⁿ PYNCHON. 2 ^d	

— *Springfield, Records of the Selectmen, vol. III.*

At the expiration of the term this land was again leased for seven years to Edward Stebbins, one of the former lessees, as appears below: —

"20 march 1703^d agreed with Edward Stebbins to tak the schole Land in Chickcuppy field on y^e west sid of y^e Grart River for the which he sd Stebbins is to alow Seuen pounds five shillings pr y^aer uiz in paese Indain Corn Rie & Barly all to be good & marchabell Equall proportiabbell: or foner pounds Eighteen shillins In Currant money & y^e sayd

Stebbins is to hane y^e sayd Land senen yaers on y^e Select men do In behalf of the twon wher unto eich parity haue set to onr hands the day aboue sd

EDWARD STEBBINS

JAMES WARRINER }
JOSEPH WELLESTON }
LUKE HITCHCOCK s^r } Select men." — *Ibid.*

Four years after the first lease the meadow granted by the town on the east of the river was leased as follows: —

" March th 18/1700 th Select men have lete out th s^bcoole meadow which Lveth Against Edward Stebbins to John Hitchcock jvn^{or} for the Terme of six years & for^h which hee doth Ingage to fence In particvlar & also to boge & Clear th hole of sd Meadow fite for mowing & fivrther hee doth Ingage to doe an eqvall proportion of dreening th sd meadow : when th propriators shall see Cavs to dreene th same provided thay doe it In th above sd terme of six years & In Confirmation of th above written bargain th abouesd John Hitchcock jvn^{or} hath hear vnto set his hand & seall th Daye & date above written

Signed & sealed In th
presence of

JOHN HITCHCOCK Jun^r

THOMAS COLTON
EDWARD STEBBIN
JOS STEBBIN." — *Ibid.*

It has been shown that the town schoolhouse was on the east side of the river and remote from the centre of the old town. It was more remote from the village of Long-meadow, on the south of the town, and still more inconveniently located for the inhabitants on the west side of the river, both which places were increasing in population. In 1701, therefore, it was proposed to apportion the time of the annual service of the grammar-school master among the inhabitants of these three settlements, as shown by the following entry in the town records: —

" At a generall Towne meeting march 11th 170⁹

where as there was a writing presented to the Towne that the grammar schoole might be kept seaven months in the yeare on the west side of the river and at the long meadow : and the Towne plot to hane it fine months the Towne voted they would Condesend so farr as that those on the west side of the river and long meadow shold hane him six months and the Towne plot six months for this yeare only." — *Springfield Town Records, vol. III., p. 272.*

This arrangement, made for one year only, may have been continued for two or three years, but no subsequent vote to that effect has been discovered. In 1705 a new arrangement was made by vote of the town, as follows: —

" march 26. 1705. At a Town Meeting.

It was voted to pay out of the Town Treasury an Addition of sixteen pounds to encourage the Inhabitants on the west side of the great River, & of the Long-meadow to promote the Learning of their children for the present year. & the Select men are to se to the disposing of said sum according to their best discretion." — *Ibid., p. 280.*

Probably the money thus voted, though nominally only for that year, was intended as an equitable allowance for the school expenses of the west side, to be renewed in succeeding years. It was certainly continued the next year.*

This provision, however, was not satisfactory to the inhabitants on the west side of the river who, from their situation, were practically denied the privilege of the school, and having no authority, independent of the votes of the inhabitants of the whole town, to maintain a school among themselves they applied for advice as to the course they should pursue to the justices of the county convened in the Court of General Sessions who, by law,† were required to see the laws for the maintenance of public schools duly observed. The following is the record of this application and of the action of the Court thereupon: —

" Anno, RR^oine Annæ; Q^{uinto}

Att a Court of general Sessions of the peace, holden att Springfield, on the Third Tuesday of May being the 21st day 1706

Several of the Inhabitants on the West side the great River In Springfield; Moving to this Court; for advice, about the settlement of schooling amongst them—

It is desired by this Court, That Samuel Partridge, and Joseph Parsons Esq^{rs}, doe move the same to the next general assembly; that an act may be passed for the settlement of a school for reading, and writing, on the s^d West side the River—

A true Coppy as appears of Record

Exam^d P JOHN PYNCHON Cler." — *Mass.*

Archives, vol. 58, p. 246.

After this action by the Court of Sessions, a town meeting was duly warned and held, of the proceedings at which the following is a copy of the record: —

" May. 30th 1706. At a Town Meeting of the Inhabitants of Springfield.

It was proposed to nominate some men to answer the Petition of the Inhabitants on the west side of the gr^t River at the present Gen^l Court respecting a Schoole for them: & it was disliked

And it was agreed to & voted that the said west side Inhabitants haue Liberty to get a Schoole master to teach their children to read & Write & that the Charge be carryed on by y^e Town In the same manner as the schoole affair is carryed On, on the East side of the gr^t River according as the Law directs :

And the Like Vote was passed for the Inhabitants of the Long meadow." — *Springfield Town Records, vol. III., p. 282.*

* Springfield Town Records, vol. III., p. 281.

† Province Laws, 1701-2, chapter 10, § 4.

This vote of the town did not avail to stop the application to the Assembly. Of the two persons requested by the Court of Sessions to present the subject to the General Court, Partridge was a member of the Council, and Parsons was the Representative from Springfield. It has not been ascertained that either of these gentlemen made a motion as requested by the Court of Sessions; but the following was read in Council on the eleventh of June:—

"may it please yr Excellency and yr Hon^d Gen^l Assembly
Wee the inhabitants of y^e West side of y^e River at Springfield are greatly burthened by Being obliged to pay toward y^e supporte of y^e Town school from which wee Can Receive no manner of profit, and by which Wee are Disabled to maintaine one among ors: * o^r Children (which are Enough for a full scoole) are in danger of Ruine for want of suitable Education Wee have applied ors: * to y^e Towne but Cannot have that done which will be [eff t]ectual to Uphold a Constant schoole, Wee therefore pray that y^e Hon^d Courte would please to Release Us from s^d obligation to y^e Towne schoole and oblige t^e us to maintaine one among ors: * and that Wee may Receive or propo[r]tion t^e of those Lands that are sequestred to that use; which is the Petition of your humbel servants

JOHN BARBER	} Committe for the Precinct."
BENJA LEXNORD	
JOHN MILLER	
JAMES MIRECK	
JOHN DAY	

— *Mass. Archives*, vol. 58, p. 245.

Upon "consideration of the above petition" the order which constitutes this chapter was passed by the Board, and sent to the House for concurrence. On the fourteenth it was read and concurred in, and consented to by the Governor.

By this chapter West Springfield secured for seven years the benefit of regular free tuition in reading and writing, but no provision for the higher education of the grammar school. The determination of the inhabitants of this precinct that their children should receive the benefit of free tuition, notwithstanding it added considerably to the pecuniary burden incurred on account of the pending war with the French and Indians, appears all the more creditable from the fact that the representatives of other towns were asking, as shown in the following petition and abortive resolve in the previous Assembly, for a temporary suspension of the penalties of the school laws:—

"In the House of Representatives. Novem^r 21: 1705

Whereas diverse of the Members of this House, have Represented, That their Towns, are so deeply Impoverished, by the great charge, and Damage of the present War, That they are very hardly able, to maintain their Ministers, and pay the publick Taxes Levied on them, and are uncapable of Complying with the Law requiring them to be constantly provided of a Grammar-Schoolmaster.

Resolved That all the Towns of this Province, that Consist of lesse than Two Hundred families, shall be Exempted from the Penalty of the Law, for not being provided, with a Gram^r schoolmaster, for the Space of three years next coming if the war with frince, & Spaine, So long Continues.

Sent up for Concurrence.

THOMAS OAKES Speaker

In Council. Nov^r 27th 1705.

Read and Voted a nonconcurrence.

Is^d ADDINGTON Secry." — *Ibid.*,

p. 245.

Chap. 14. This chapter is from council records, vol. VIII., p. 204. It has not been found in the archives.

The message which constitutes this chapter was sent up after the Council had passed the order mentioned in the note to private act, number nineteen, "That the Judges forthwth do therein what appertains to Law," † in which order the House had not concurred.

The following extract from a letter to Fitz-John Winthrop, Governor of Connecticut, written by his nephew John Winthrop, at Boston, after June 15, 1706, gives a graphic picture of the exciting events immediately preceding the message of the House communicating the written evidence laid before the Council:—

"Cap^t Veatch has been absent three months from this place; nobody knew where he was gon. He returned y^e last Thursday, and as soone as he came, y^e Speaker of y^e House of Representatives, by ord^r & consent of the whole House, sent a messenger for him to appear presently, to give an account where he had been, &c. The master of y^e vessel tooke his oath before all y^e court y^t he went loaden from here wth provision, guns, ammunition, &c. to trade wth y^e French & Indians along y^e coast, and y^t he had bartered those commodities wth the enemies for furs &c. The deputies made M^r Boreland (who is also concern'd) give a thousand pound bond that Veatch should be forthcoming in a week, or else a prisoner. The deputies are in a rage about it and say y^t it put knives into the hands of those barbarous infidels to cut the throats of o^r wives & children. It was wth much difficulty they were p^swaded to take y^e bond; most of them were so furious as to have him confined in y^e stone cage, for fear he should get away. A lett^r from y^e Gov^r of Canady to o^r Gov^r was read in y^e Assembly last week, in w^{ch} was such a passage as this:—'Sr, you need not wonder, neither can yon blame me, about y^e repeated murders committed upon y^e people by y^e Indians, w^{ch} y^e owne vessels come privately & trade instruments of war wth y^e salvages.' I am sorry y^e accident has hapned about Veatch at this time, w^{ch} a parcell of resolute rusticks sit upon y^e bench, who have perhaps some of them had friends or relations slain by those heathens. The deputies und^rstood that Veatch had sent his vessel round

* *Sic*: ourselves.

† Manuscript mutilated.

‡ *Mass. Archives*, vol. 63, p. 17.

ye Cape, to land his cargo at Mr Murdow's, a Scotchman living at Plimouth. They immediately dispatcht away one of ye members of ye House wth a speciall warrant from ye Gov^r to seize her (being afraid to trust a common officer), and they have seized ye vessel & cargo, found all ye papers, &c. Here is a horrid combustion in towne about it. I am very sorry & wish he may come off well. Satterday morning arrived ye West India fletee, about 20 saile, w^{ch} occasioned a great allarum, and I was mustered among ye crowde of Bandileers, under ye command of Lieftenant Thos Smith, brazier. Yo^r Hon^r w^d have smiled to have seen how I was accoutered, wth an old matchlock blunderbuss w^{ch} grand-sire Adam* anciently used." — *Winthrop Papers, part V., p. 334.*

Chap. 15. This chapter is from archives, vol. 62, p. 525. It is recorded in council records, vol. VIII., p. 204.

The following appears to be an imperfect draught of a warrant to impress laborers and seamen for the voyage of the brigantine Dragon, equipped to intercept any who might be carrying on illicit trade with the enemy:—

"By his Excellency the Governr

To the Sheriffe of the County of Suffolk, his Deputy's and Constables of Boston and every of them Greeting.—

You are hereby Required in Her Ma^{ty}s name forthwith to attend Captain John Calley and Captⁿ John Blew, and give them all needfull Assistance, in Impressing and taking up for Her Ma^{ty}s Service, Labour." — *Mass. Archives, vol. 71, p. 214.*

On the other side is a specification of the number of laborers and seamen wanted, and the need of an order for stores, a warrant to the sailing master, and a commission and instructions to the commander. It seems to have been prepared by Captain John Calley, or by some one for him, as it uses the pronoun of the first person, and begins with, "Mems^{rs} abt fitting out Captⁿ Calley." It reads as follows:—

"20 Laborers. to Clear & Ballast the vessel & hele Her of into the Road.

2 Lighters. 1 to fetch Ballast, the other to Take out what is in her.

an order to Beat vp for volunteers in Cap^t: John Blews name forthwith.

A Presse warrant if volunteers sufficient do not offer.

and an order to the Comiss^y Gener^l for all stores needfull.

a Comission & Instructions for my self.

and a Warrant to mr John Blew to be master of the vessel.

The flying Horse lately seiz'd to be sent with me. & a warr^t for the master of her 10 men." — *Ibid.*, p. 215.

This project was abandoned upon the Governor's tendering the Province Galley for the expedition. See a particular account of the whole proceeding in the note to private act, number nineteen; also note to chapter 17, *post*.

Chap. 16. This chapter is from archives, vol. 63, p. 18. The following is the proclamation issued in response to the request mentioned therein:—

"By his Excellency Joseph Dndley Esq^r Captain General and Govern^r in Chief in and over Her Ma^{ty}s Province of the Massachusetts Bay in New-England, and Vice-Admiral of the same.—

A Proclamation for the Apprehending of William Rouse of Charlestown Mariner.

Whereas William Rouse of Charlestown in the County of Midd^y within Her Majesties Province aboves^d Mariner, having lately been under Examination before the House of Representatives in the General Assembly now sitting, for corresponding and Trading with Her Ma^{ty}s open Enemies, the French and Indians; which plainly appear's to that House, as they say, by diverse Evidences as well as by his own confession; And being on his Parole to a further attendance on the House, is withdrawn and absconded, and cannot be found by the Messenger, although Inquired after and sought for at his own dwelling.—

I do, therefore, by and with the Advice of Her Ma^{ty}s Council, and in Her Ma^{ty}s Name, require the s^d William Rouse forthwith to render himselfe and attend the General Assembly now Sitting; Hereby strictly forbidding all persons to conceal harbour Entertain assist or further his Escape, as they Tender the Duty of their Allegiance; and on pain of suffering the severest penalties of the Law. And all Sheriffes, undersheriffes, Constables & other Her Ma^{ty}s Liege People are alike Commanded and required to Seize and attach the body of the said William Rouse and to render him to One of the Judges of Her Ma^{ty}s Superior Court, or to one of Her Ma^{ty}s Justices of the Peace That he may be secured and brought to further Examination and due procedre according to Law for the matters & things wherewith he stands charged on Her Ma^{ty}s behalfe.—

Given at the Council Chamber in Boston the day of June, 1706. In the Fifth year of Her Maj^{ties} Reign.—

God save the Queen./." — *Mass. Archives, vol. 63, p. 12.*

The circumstances which led to the issuing of this proclamation are narrated in the note to private act, number nineteen.

Chap. 17. This chapter is from council records, vol. VIII., p. 206. It has not been found in the archives.

In the note to chapter 15, *ante*, it is stated that the project of employing the brigantine Dragon was abandoned upon the offer of the Province Galley in her stead. This change was effected by the present chapter.

The Dragon, commanded by Captain Blew, was published in the News-Letter of the seventeenth of June as "outward bound" for Montserrat,† and again, on the fifteenth of July,

* Adam, the father of the first Governor John Winthrop. See notes to chapter 11, *ante*, and to private act, number nineteen.

† No. 113.

as having cleared for Fayal.* If it were possible that, in the mean time, she made a voyage to Montserrat and back, it is not probable, in view of the fact that the order for discharging her from the province service was so late as the nineteenth of June. It is more likely that the earlier advertisement was a ruse to mislead spies and informers who were in communication with the enemy.

The Governor had previously made a proposition for furnishing a tender for the Deptford, which was agreed to; and the vote in this chapter requesting that she be ordered out on a cruise was only the advice of the representatives in furtherance of the Governor's design. The record of the Governor's proposition is as follows:—

"June 17, 1706. His Excellency proposed the Taking up a suitable Sloop for a Tender on her Majesties Ship Deptford with a Master & a Boy to be borne upon her; & to be man'd &c, out of the Friggott, And made out a Warrant to the Marshal of the Admiralty to take up a Vessel accordingly with the Advice & Direction of the Commissary General." — *Council Records, vol. VIII., p. 204.*

From the following entry in the executive records of the council it would seem that Calley, in his trip to Plymouth to capture the Flying Horse and the Resolution, sailed in the sloop Plymouth:—

"Jan. 2, 1706-7. A Muster Roll of the Sloops Flying horse & Plymouth, in her Majesty's service under the command of Capt John Calley, containing an account of mens Wages and Vessel hire from the fifteenth† of June to the 21st of July 1706, amounting to Twenty nine pounds two shillings and eight pence; having been examin'd by Mr Commissary General, was presented — And.

Advised and Consented. That a Warrant be made out thereon to the Treasurer to pay the above sum of Twenty nine pounds two shillings and eight pence to the s^d Captⁿ Calley and Company accordingly. The hire for the Sloop Plymouth to be paid to Ephraim Cole the Master." — *Vol. 4, p. 362.*

The province treasurer's account‡ of the payment of this muster-roll shows that only £23 15s 8d. was actually paid to Calley. The reason of this discrepancy has not been discovered.

On the third of July the Province Galley touched at Piscataqua, bringing tidings of the result of her cruise to that date. Of this the News-Letter of the eighth of July published the following report:—

"*Piscataqua, July 5th.* Capt. Southack in the Province Galley came in here on Wednesday last, he has taken a French Sloop of 60 Tons in the Bay of Port-Royal, the Enemy all fled, and 'tis supposed she was going for Stones and Timber to build some Fortifications. The Prize Sloop and Capt. Cawley was left by Capt. Southack in Casco-Bay." — *No. 116.* The next issue (*No. 117*) credits Captain Calley with the capture of this sloop.

The cruise of the Deptford was apparently an independent undertaking. This surmise is strengthened by the following extract from a letter of the twenty-fourth of June by Wait Winthrop to his brother, the Governor of Connecticut, showing that the Province Galley, commanded by Captain Southack, and the Flying Horse, which accompanied her, made this voyage under the immediate direction of Captain Calley:—

"Captⁿ Cawly of Marblehead, who is one of the House (and was sent to seize the other sloops who put in to Plimoth to leave their bever, &c., with one Murdoc, a Scotch trader, who dwells there, and brought them in here), is gon with the gally and sloop, and Captⁿ Southwick is to follow his orders and doe as he directs." — *Winthrop Papers, part VI., p. 142.*

The Deptford may have made several short cruises under the order which concludes this chapter. It is certain that she had returned to Boston by the fifteenth of July, for on that day a notice was published in the News-Letter, calling upon certain marines therein named, who had deserted, to return to their duty on board, and offering rewards for their apprehension, they to be delivered to their captain, Thomas Sutton, and in case they should be brought to Boston while the Deptford was at sea, they were to be delivered to John Campbell, postmaster.

The only record that has been discovered of the actual employment of a tender to the Deptford is the following entry, which shows that the sloop Hannah and Ruth served in that capacity from the fifth of July to the third of October:—

"Jan 27, 1706-7. A Muster Roll of the Sloop Hannah and Ruth William Walter Master, Tender on her Maj^{ty}'s ship Deptford containing an account of Wages for the service of the s^d Master and one Man & Sloop hire from the fifth of July to the Third of October 1706 amounting in the whole to sixty four pounds, twelve shillings and eight pence, having been examin'd by Mr Commissary Gen^l was presented and.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the above sum of sixty four pounds, twelve shillings and eight pence to the s^d William Walter on behalfe of himself Company and Owner." — *Executive Records of the Council, vol. 4, p. 373.*

The province treasurer's account§ shows that the amount above mentioned was paid. See, further, the note to private act, number nineteen.

Chap. 18. This chapter is from council records, vol. VIII., p. 205, and archives, vol. 40, p. 848.

The following is the petition and complaint mentioned in the preamble to this chapter:—

* No. 117.

† The date of her seizure by Calley and before her condemnation in the Admiralty Court.

‡ Mass. Archives, vol. 122, p. 272.

§ *Ibid.*, p. 277.

"To his Excellency Joseph Dudley Esq^r, Capt. Generall & Governor in Chief in and over her Majesties Province of the Massachusetts Bay And to y^e Hon^{ble} her Maj^{ties} Council and house of Representatives now in Generall Court assembled at Boston within & for said Province May the 29th 1706. —

The Humble Petition & Complaint of Samuel Lillie of Boston Merchant.
Sheweth

That Whereas Mess^{rs} Samuel Keeling & Charles Chauncy of Boston Merchants at her Maj^{ties} Superior Court holden at Boston in November last past recovered a Judgement against your Petitioner for the sum of Two hundred and ninety Pounds five shillings and four pence Current money of new England and Three pounds fifteen shillings Cost of Suit, and afterwards took out Execution for the same directed to Giles Dyer sheriff for the full Satisfaction of which Execution, Your petitioner on the twentieth day of Decem^r, last past delivered to the said sheriff Three Baggs of money Viz^t Two Baggs Containing in Reals and quarter peices the Quantity of 5625 Reals, all of them to your petitioners appearance fair money & unclipt according to the Law of this Province, which he accordingly received, which at 8^d p^{ce} peice amounts to one hundred Eighty seven ponn^ds ten shillings, The other Bag containing 302 ounces which at 17^d wt for six shillings, is one hundred and six pounds Eleven shillings & Eight pence, both which summs amounted to Two hundred ninety four Pounds one shilling and Eight pence which is Eleven pence more than was due which together with Eleven ounces and $\frac{3}{4}$ three fourths at 17^d wt for six shillings was by the Petitioner delivered to the said sheriff as aforesaid in full of the said Execution and his fees in Levying the same. Notwithstanding which, the said sheriff did not satisfy the said Keeling & Chauncy but kept the sd Baggs & Quarter peices & Reals in his hands untill the Superior Court in May last, when the sd Writ of Execution was Returnable alledging that many of the sd Reals and Quarter peices were Pern, and Clipt; Whereupon the Court Ordered, that Three skilfull Goldsmiths should look them over who accordingly did, and Returned that there was a sprinkling of Pern and Clipt peices among them (not mentioning any Quantity) upon which the Petitioners Attorney in Court, openly Tendred and offered to Change all such Pern, or Clipt peices that should be found amongst them into seventeen pennyweight, or good New England shillings and prayed the Benefit of the Law of this Province, That all the Quarter peices and Reals that were not Pern, nor Clipt, contained in sd Baggs might be delivered by Tale and not otherwise. But the said Court without any regard to the said Tender & motion, and without Ordering those few Clipt, & Pern, quarter peices & Reals to be taken out and severed from those that were good, and according to Law, did notwithstanding order the whole quantity to be delivered by weight at 17^d wt for six shillings and accordingly the said sheriff delivered the same two Baggs of Quarter peices and Reals of your Petitioners to the said Keeling & Chauncy by weight as aforesaid. And further the said Court have Ordered an *alias* Execution to be granted against your Petitioner for :17:18:6 which the said sheriff is Endeavoring every moment to Levy upon your Petitioner which is so much to your Petitioners damage (hesides Cost & Charges) as well as Contrary to Law for that: 1st the said Quarter peices and Reals of your Petitioners if Levied not as money, but as Goods or Estate ought to have been appraised, and your Petitioner himself have had the Refusal of them, when instead of that they were at once without the notice of your Petitioner delivered to the sd Keeling & Chauncy.

2^{dly} for as much as by the Law of this Province for ascertaining the value of Coines, It is Enacted that Quarter Peices and Reals of Sevil, Pillar or Mexico Coin shall go by Tale Viz^t the first at 16^d and the Latter at 8^d p^{ce} p^{ce} Provided they be not diminished by washing &c^a —

and as such shall be the Current Lawfull money of this Province Now if all the species of money under half peices of Eight must go by weight a great part of the Law above cited was made in vain and will be of no use or Effect.

Whereupon Your Petitioner humbly prays the advice of this Great and Generall Assembly not doubting but your Excellency her Maj^{ties} Council & the Representatives of this Province will take Effectual Care to honour and support the Laws of this Province and oblige all Other Courts and Officers whatsoever to Conform themselves thereunto and Order Your Petitioner such Relief in the Premises and to your wisdom and Justice shall seem meet withall praying that the Parties Concerned may be notified to attend at such times & places as your Excellency & Hon^{rs} shall appoint

And Your Petitioner, as in duty bound shall ever pray —

SAMUEL LILLIE." — *Mass.*

Archives, vol. 40, p. 846.

The case in which the judgment mentioned in this petition was rendered was an appeal from the judgment of the Inferior Court of Common Pleas for Suffolk, held at Boston October 3, 1705, wherein Keeling and Chauncy were awarded "the Sum of Two hundred and Eighty Eight pounns Twelve Shillings and four pence Curr^t Silver money of New England (being y^e Chauncery of said Bond unto it's just Debt and damages) and Costs of suit."*

The above petition sets forth the essential facts of the controversy. By Judge Sewall's memoranda, which are printed in full in the note to chapter 53, *post*, it would seem that Lillie had previously filed another petition, for which the present paper was substituted on account of some reflections on the judges contained in the former. The arbitrary manner in which the substitution was made and the paper sent to the House without action thereon by the Council is also narrated in the note aforesaid.

The first execution against Lillie bears date November 26, 1705, and the return thereon by Sheriff Dyer, together with the first receipt of the creditors to him, is as follows: —

"Suffolk ss Boston xber 15th 1705

By Vertue of this Execution I have Levied it in pt upon the money's of the within-named Samuel Lillie which was shown unto me by s^d: Lillie to be his Estate and have

* Records in the office of the clerk of the Superior Court in Suffolk County.

paid and satisfy'd the Creditors with Two hundred and seaventy six pounds two shillings and three pence in p^t of this Execucion as p^r receipt and there yet remains to satisfy it Seaventeen pounds Eighteen shillings and six pence.

GILES DYER Sheriff

Boston y^e 15th xber 1705

Recd then of Mr Giles Dyer Sherriff three hundred and two ounces of mixt money, being ps of Eight and New-England Shillings; at Seven Shilling 1st ounce being one hundred and five pound four Shill^{ts}; I say Recd in p^t of this Execution for Self & Comp^s

SAMUELL KEELING."—*Suff-*

folk Court Files.

The creditors refusing to receive by tale the remainder of the money levied, the sheriff applied, as follows, to the Court for instructions as to his duty:—

"Suffolk ss

Boston Decem^r y^e 15th 1705

By Vertue of this within Execution I have Levied in part upon a parcel of Money of the withinnamed Samuel Lillie's which was show'n unto me by s^d Lillie to be his Estate. Three hundred and two ounces of mixt money, being ps of Eight and N England shillin at seaven shillings 1st ounce being one hundred & five pound four shillings the Creditors recd: as 1st their receipt the other part being quarter p^s & reals they refused to receive by tale because they did not judg them to be equivalent to p^s of Eight at 17^d w^{ch} which q^r p^s & reals they offered to receive by w^{ch} at 7^d 1st oz as they received the other money but Mr Lillie would not Yeild to it. Therefore I pray your Hon^{rs} to give your Judgment whethr those quarter p^s & reals will be sufficient money to satisfy this Execucion According to Law

GILES DYER Sheriff."—*Mass.*

Archives, vol. 40, p. 853.

The following memorandum, containing a specification of the kinds of money, seems also to have been presented by him to the committee:—

"Royalls *

In a Bagg N^o 1 : q^t 3000—

In a Bagg N^o 2 q^t 2625

5625 att 8^d a p^{cs} is £ s d
187: 10: 0

In a Bagg N^o 3 q^t 302 3 In p^{cs} 8/3 & ca att 17^d Penny waight. a p^s 8/3 is . 106: 11- 8

294: 1: 8†

To y^e sheriffe 11 3 3/4 for Charges of Execution on s^d money att 17^d Penny

waight a ps 8/3 4: 2: 0."

—*Ibid.*, p. 852.

Thereupon the Court, at the May session in Suffolk, appointed a committee of goldsmiths, as stated in the petition. The record of this order is as follows:—

"Ordered that Mess^{rs} John Coney Edward Winslow & John Noyes view a parell^l of Mony Levied from Sam^l Lillie by Execution at the Snit of Sam^l Keeling & Charles Chauncy."—*Records of the Superior Court of Judicature, 1700-1714, fol. 180.*

The following is their report:—

"Boston May 10th 1706. Wee whose names are under written being Ordered by this Court to view a parcell of Spanish Money Shown us by the Sheriff do find a Sprinkling of Perew & some clipt money amongst it.

JOHN CONEY.

EDWARD WINSLOW.

JOHN NOYES."—*Mass.*

Archives, vol. 40, p. 856.

Upon considering this report the Court at the same session passed the following order:—

"It is ordered that an *alias* or *pluries* Execution be made out against the s^d Sam^l Lillie for the Rest."—*Records of the Superior Court of Judicature, 1700-1714, fol. 180.*

This order of the Court was the grievance of which Lillie complained, since, evidently upon the assumption that by ordering an *alias* or *pluries* execution upon the former judgment the Court intended to ratify the original levy, the sheriff felt justified in making the second payment, which was receipted for to him on the original execution, thus:—

"Boston y^e 10th May 1706

£170: 18: 3 Recd then of Mr Giles Dyer Sherriff one hundred and Seaventy pounds Eighteen Shill 3^d: being in part of this Execution I say Recd for Self & Co

SAMUELL KEELING."—*Suff-*

folk Court Files.

An *alias* execution was issued May 27, 1706, to satisfy so much of the judgment as remained unpaid conformably to the sheriff's return; viz.,—£17 18s. 6d.

Upon this *alias* execution the sheriff made the following return:—

"Suffolk ss:

Boston June y^e 10th 1706

By Vertue of this Execution I Served it upon the person of the withinnamed Samuel Lillie and have since received the money and satisfied the Creditors as p^r receipt above

GILES DYER Sheriff."—*Ibid.*

Four days after the date of this return one of the plaintiffs had signed the following receipt, endorsed on the execution:—

* *Sic*: reals.

† Reduced to provincial currency values.

‡ *Sic*.

"Boston June ye 14th 1706

Reced Seventeen pounds Eighteen Shill Six pence with two Shill for this Execution being in all Eighteen pounds 6 pence w^{ch} is in full of this Execution I say Reced for Self & Comp^a

£18 - - 6

Ps SAMUELL KEELING." — *Ibid.*

The above or second petition appears to have been read, first, in the Council, on the eighteenth of June, and the order thereon passed and sent to the House for concurrence. On the twentieth it was read and concurred in, and consented to by the Governor.

See, further, chapter 53, *post*.

Chap. 19. This chapter is from council records, vol. VIII., p. 199, and archives, vol. 40, p. 835.

As stated in the note to resolves, 1705-6, chapter 70, the petition mentioned in the preamble to this chapter and the grounds thereof, together with the steps preceding the passage of this order, are given in the note to private act, number eighteen.

Chap. 20. This chapter is from archives, vol. 62, p. 526. It is recorded in council records, vol. VIII., p. 207.

The following is the proclamation issued in accordance with the desire expressed in this chapter, which originated in the House on the day of its passage:—

"By His Excellency **JOSEPH DUDLEY** Esq. Captain General and Governour in Chief, in and over Her Majesties Province of the *Massachusetts-Bay in New-England* and Vice-Admiral of the same. A PROCLAMATION against false and illegal Traders.

Whereas sundry Persons have been detected of late holding a false and illegal Trade with Her Majesties Enemies, the French and the Indian Rebels and Enemies, in and about Nova Scotia, and other parts and places Eastward, giving them Supplies: And there being just reason to suspect that other Persons, not yet known, have been concern'd in such false and illegal Trade, and the Effects conceal'd.

I Do therefore, by the Advice of Her Majesties Council, hereby strictly Command and Require all Her Majesties Loving Subjects that have any Knowledge, or can make discovery of any such false & illegal Traders, or any Goods or Effects Employed therein, or the product thereof, That they forthwith disclose and make known the same to My Self, or one of Her Majesties Judges of the Superiour Court of Judicature, in Order to their being apprehended, Examined and duly proceeded with, and the said Goods Secured.

And the Person or Persons that make the first discovery shall be Entitled to the benefit of Informers according to Law.

And all Justices of the Peace are commanded to be assisting to the apprehending Seizing and Securing of any Persons or Goods as abovesaid.

Given at the Council Chamber in *Boston* the 21st of *June* 1706. In the Fifth Year of Her Majesties Reign.

*By His Excellency's Command,
with the Advice of the Council.
Isaac Addington, Secr.*

J. DUDLEY.

GOD Save the QUEEN." — *Boston News-Letter*, No. 114.

Chap. 21. This chapter is from council records, vol. VIII., p. 210, and archives, vol. 71, p. 198.

Major John Cutler, the record of whose trial and sentence by court-martial is given below, was the son of Deacon John of Charlestown, blacksmith. He was born about 1650 and died August 12, 1708. Appointed to take command of a company detached by Major Francis Wainwright of Ipswich to serve on an expedition to the eastward, he abused his trust by committing the funds charged against him, as hereinafter shown. The prosecutor, Captain Matthew Perkins, was of Ipswich, where he died April 15, 1738, aged 72 years 9 months and 23 days.

Perkins's complaint against Cutler appears to have been considered by both branches of the Legislature before December, 1703, since the neglect to act upon such a complaint was one of the grievances* alleged by the House on the second of that month. To this alleged grievance the Governor promised redress by court-martial, as appears by the following record:—

"Dec. 13, 1703. . . . As to the Articles relating to Major Cutler . . . His Excellency declared, that at the first setting of a Court Martial, inquiry should be made into those matters, when all persons that have ought to say, may be heard." — *Executive Records of the Council*, vol. 3, p. 499.

The convening of this Court was delayed until the eleventh of February following, when it was held at Newbury and the trial proceeded, as shown by the following copy of the record:—

"Province of The Massachusetts Bay in New England

A Court Martiall held at Newbury (by order of His Excellency Joseph Dudley Esq; Capt Gener^l and Governour in Cheife in and over Her Maj^{ties} Province of The Massachusetts Bay) on the 11th Day of February 1703/4

President

Let Governour Thomas Poney Esq;

Col^l Daniel Peirce

Maj^r Francis Wainwright

Capt^t John Wadleigh

Capt^t John Peirson

Capt^t Hugh March

Capt^t Abraham Freeble

Let Col^l Thomas Noyce

Maj^r Rich^d Saltonstall

Capt^t Hen^r Somersby

Capt^t Hen^r True

Capt^t Joseph Boynton

Capt^t Joseph Browne

* "We pray That Major Jn^o Cutlers mismanagem^t y^t hath bene Layd before yo^r excellency as well as this house may be Examined; & upon due proof that y^e sd Cutler may be obliged at [*sic*] Answer y^e next sessions of this Court." — *Mass. Archives*, vol. 70, p. 667. *Vide* other grievances mentioned in notes to resolves, 1703-4, chapters 71 and 111.

Lt Mathew Pirkins deposed upon Oath against Majr Cutler as followeth :

Majr Cutler coming to Ipswich to Receaue the Company of men detachd by Majr Wainwright Being forty Eight in Number wth Commission Officers, he made the cuntry Debtor for fifty men for five dayes Prouisions and one of them five dayes the forty Eight men had no Prouisions; Then we March't on March the 23^d 1702/3 untill the 7th of Aprill and one of those dayes we had no Prouisions Then we went to Capt Wheelwrights store where he still took Prouisions for fifty men; a little while after Capt Ienbod Plasted told me he had bought of Majr Cutler as much Prouisions as amounted to thirty or forty shillings, then we had orders to March from Salmon falls to York and then Receaue our Prouisions from Mr Pepperills (Viz) one hohd of Bread and 'Tow Bar^{ls} of pork, we had then new orders from His Excelency to Take New Prouisions for a March Majr Cutler then Tooke out four mens Prouisions that ware at Cochecha, and that were drawne off his Company and those Prouisions were sold at Mr Donnells

1 Samuell Donnell of full age Testifieth & saith that the last fall of the Year that I the deponant saw my wife Bargaine and Bought of Majr John Cutler of Bread and Pork and Malasses and my selfe Bought of himselfe about a pint of solet oyle and of his Insigne Bail Twenty nine peices of Pork the whole that the s^d Capt Cutler sold to my wife and my selfe in Value and that the Insigne Bail Could he said by Cutlers order was near about thirty shillings and further saith not Taken upon Oath this 5th day of February 1703/4

Before me ABRAHAM PERRELE Justice of Peace

2 The Testimonyes of Joseph Dressar Dan^l Waters and Anthony Day: Who Testifie & say that in our seruic of Her Majestie; under the conduct of Capt. John Cutler at Wells when we were out of Prouision the s^d Capt promised us if we would waite till another day when Capt Gouge was expected in; we should haue that dayes Allowance in Run some souldiers were afraid of being cheated and some consented to stay and take Rum; w^{ch} when it was Demanded by the souldiers he sayd there was none due; and so we had no allowance for that dayes Prouision: w^{ch} if it be Charged to the Prouince is a double Injury. Sworne in Court.

3 The Deposition of the subscribers is as followeth. These Deponants Testifie & say that when Majr J^{no} Cutler last spring took the conduct of a Company of souldiers that were at Ipswich Mathew Pirkins being his L^t said Cutler Charged in his acc^t cost for fifty mens expences at Eight pence a day when as ther was but forty and Eight souldiers wth the Commission officers: and this was for five dayes Charged in the acc^t wheras the Sabbath day the souldiers were dismist till Monday and were at no expene to the Prouince unlesse himselfe & Negro:

MATHEW PIRKINS

ABRAHAM PIRKINS

Sworne in Court

4 The Testimonyes of Joseph Boles Joshua Gittings and George Smith is as followeth Wee being souldiers under the conduct of Capt John Cutler the last spring and after; had certaine knowledge that at Newbury and other places wher we had occation to abide from March the 23^d to Aprill the 7th next Ensueing he Charged in his acc^t (that he kept for Prouince Expences) for 50 men altho' we had but 48 officers and souldiers. & Lt Pirkins asking why he Charged for 50 when that they were but 48 he Replyed he would haue allwayes for 50 besides Commission officers.

Sworne in Court.

5 The Testimonyes of Joseph Boules, Joseph Dressar and Anthony Day, who Testifie and say that being souldiers last summer und^r the Command of Capt J^{no} Cutler that after the coming of the stores for supply to Capt Wheelwrights at Wells: s^d Capt Cutler took from the stores allowance for 50 men when as we were but 43 in company and he sold the allowance for Two men, and kept the mony for his owne use.

JOSEPH DRESSAR

JOSEPH BOULES

also when we came at Salmon falls and Took the supplies at Capt Plasteds he took for 4 men that were drawne off to keep Garrison at Cochecha: and also the Prouisions of the men that were by leaue gone home to Visset their frinds and for his Negro* that was Absent from us about Two monthes Robert Greeno Joseph Poor Jacob Smith these three sware to the whole of the Testimony Joseph Dressar and Bowles to the upper part

Taken in Court

6 The Deposition of Robert Greenough

That being a souldier last summer und^r Conduct of Capt J^{no} Cutler being Ill and unable for seruic I desiered of said Capt a Release and being owne of the souldiers that went to Black point I Claimed it by the Goner^s order: but said Capt Refused, But said when we went to Salmon falls he would consider of it; and there he wrot an obligation for me to deliner him a gun that he had a mind to, before; and I was not willing to part wth but then I signed said obligation to deliner my gun upon his giueing me a Release

Sworne in Court

7 The Testimony of Rich^d Lee

I being a souldier under Conduct of Capt. Cutler last summer was Ill and weak and unable for seruic I Told said Capt I would giue him Twenty shillings To gitt me a Clearance from the Governour who was there at that time; and he went into the house to his Excelency and about a Quarter of an hour he came out and told me he had got a Clearance for me wherupon I signed a Receipt in his book of Twenty shillings that he might Receaue so much out of my wages

Sworne in court

* It would seem by the following item in the province treasurer's account from May 31, 1706, to May 29, 1707, that the wages of this negro were not paid at the time of mustering out; and by the same paper it appears that Cutler continued in the service until he was cashiered by sentence of the court-martial:—

"Paid Majr John Cuttler for the Wages & Subsistance of his Molatto Servant Tom from the 17th March 1702, to ye 12th of February 1703, during which time served her Maj^{ty} as Centinel und^r his master's Command & was Omitted in the Muster Roll

—*Mass. Archives*, vol. 122, p. 283.

8 The Testimony of Daniell Waters

Testifieth and saith that being under the conduct of Capt^t John Cutler part of the last summer the s^d deponant being Released by his Excellency the s^d Cutler Refused to Release s^d Deponant unlesse he would Give one peece of Eight and Sergeant John Robenson another w^{ch} accordingly I the s^d Deponant did and said Cutler would hane it done priuently because it should not be knowne.

Sworne in Court

9. The Testimony of Abraham Roe

Who saith that being a souldier under Com^{and} of Capt^t John Cutler the last spring and Continued wth: him some mounths till I was Ill and lame and Very unfit for seruic: and haueing agreed wth a sufficient man to supply my place if he might be accepted by Capt^t Cutler w^{ch} when I Requested of him he said he would not accept of wth out an order from his Excellency; but when I understood that if I proffered said Capt^t mony he would grant it; I being in such Inability to attend sernis I told him if he would accept of such a one in my sted I would giue him Two peeces of Eight w^{ch} when I had paide the Exchange was Readly made wth out any order from his Excellency that I heard of; and notwth standing my paying of that mony about 4 dayes after I was dismist I understood by James Sayword that Capt^t Cutler told him that he would dismis me as the said Sayword Requested him upon the dessier of my Mother if he would pay him Two peeces of Eight but on his Discourse he told him that he would clear him for one peece of Eight w^{ch} he paid him, w^{ch} when I asked Capt^t Cutler for; but he Refused to Returne it tho' afterwards I was Informed that the s^d Sayword had the same Returned.

James Sayword Testifies to the latter part of the aboves^d Evidence about the paying of the peece of Eight and the Returne of fivie shillings said Cutler draweing him to expend one shilling of it

Sworne in Court

10 John Legro Testifies

That being a souldier last summer under the conduct of Capt^t Jno Cutler had leaue from his Excellency for a Release upon presenting a person to acceptance of Capt^t Cutler w^{ch} when I had hieed s^d Cutler liked the person but would not Release me wthout I paid him Two peeces of Eight one of w^{ch} I paid Downe the other six shillings he had order to take out of my wages. and he told me he used to hane Two or three peeces of others

Sworne in Court.

11 The Testimony of Joseph Dressar

Who saith that being under the conduct of Capt^t John Cutler the last spring and part of the summer: haueing obtained an order from his Excellency for Release upon the supply of my place wth another souldier; the s^d Cutler would not Release me he said wthout I would giue him a peece of Eight w^{ch} I was forced to pay to obtaine my Discharge which when I had paid I told him it should be a dear peece for I would Informe his Excellency of. and he said I might seek my Recompence for he said he did nothing but what he could Answer to his Excellency

George Smith Testifies that he saw s^d Dressar pay s^d mony to said Cutler and heard s^d Dressar tell him the words before Related upon the payment of it being a souldier under the s^d Cutlers' Conduct

Sworne in Court

12 The Testimony of Joseph Andrews

Who saith that being a souldier under the conduct of Capt^t Jno Cutler last summer I asked him what I should giue him to Release me he said three peeces of Eight I said I would giue him Two peeces of Eight when I Recceaued my wages and one then wherupon he Released me and I paid the one Downe in hand to him: and when I went to take my debenture in Jeannary last he demanded not the Two peeces but shewed me much kindness at his house and perswaded me to signe a writeing that I had not giuen him three peeces of Eight and I haueing signed he dessiered me to be silent and not say any thing of it

Sworne in Court

13 The Testimony of Anthony Day

This Deponant Testifieth and saith that being a souldier under the Conduct of Capt^t Cutler last summer I manifested some dessier to hier a man to Supply my Roomes and sted and Informed s^d Capt^t who; and he was not willing to accept that man but Said such a man he would: (Vizt) John Wintworth who when I had treated wth asked me more then I was willing to giue yet said Capt^t Importuned me to allow it him after I denied it but one Sabbath day after all my Refusalls he sent for me and was so Importunate wth me to hier that man that I consented and when I had done it he would haue a peece of Eight for it w^{ch} when I told him I had not, he said I might Borrow it for him of said Wintworth; who I Borrowed it of and for it was to allow seven shillings out of my wages

Matthew Pirkins Testifies that he heard s^d Cutler say to s^d Day that he might haue the mony of said Wintworth and pay him 7/ in leu of it out of his wages.

Sworne in Court

14 The Testimony of John Kemball

Who saith that being a souldier last summer under conduct of Capt^t Jno Cutler I had a Clearance from the Gouernour upon another man's being Imprest in my Roomes: but when the man came said Cutler would not dismiss me nor enter the other unlesse I would giue him a peece of Eight out of my wages w^{ch} I was forced to pay and did pay it to obtaine my clearance by giueing an ord^r

Sworne in Court

15 Joseph Bigsby Testifies

That being a souldier the last Summer under the conduct of Capt^t Jno Cutler I had a Release from his Excellency upon presenting another ordered to be Imprest for that end but said Capt^t Cutler would not Release me nor enter the other in my sted unless I would giue him a halfe peece or three shillings w^{ch} I was forced to pay before I had my dismission.

Sworne in court

The court then Adjourned Till next Day at nine in the Morning . . . — *Mass. Archives*, vol. 71, p. 15.

At the adjourned session sentence was pronounced as follows:—

“February 12th All Partyes concerned met

The Sentence against Maj^r Cutler is (Vizt)

That the court Martiall are of opinion (*Nemine contradicente*) That Maj^r John Cutler for his crime of Imbezeling and selling Her Majesties Victualls he be Cashered from Her Majties Service and Rendered incapable of ever Serving Her Majesty as a Military Officer and that he forfeit unto Her Majesty his wages now due to him

Whereas Maj^r John Cutler has Contrary to Her Majesties lawes forced and Taken from severall souldiers under his Command severall Summes of money for their Release from Her Majties Service as appears by the aforesd Evidences

Viz ^t		
from	Dan ^l Waters	0: 12: 0
	Joseph Dresser	0: 6: 0
	Joseph Bigsby	0: 3: 0
	Joseph Andrewes	0: 6: 0
	Anthony Day	0: 6: 0
	Abraham Roe	0: 12: 0
	J ^{no} Legro	0: 12: 0
	John Kimball	0: 6: 0
	Richard Lee	1: 0: 0
Sume		4: 3: 0

As also of Robert Greenoe a Bill for a gunn

The court Martiall are of opinion (*nemine contradicente*) that for the abovesaid offences the sd Maj^r Cutler pay unto Daniell Davison the Clerk of this court the severall summes aboves expressed for the use of the said souldiers and Returne the said Bill for the said Gun and stand Committed till it be performed." — *Ibid.*, p. 24.

On the twenty-first of March following the sentence of the Court, a petition by Cutler, with accompanying specifications of objections, was read in the House, as follows:—

"Province of the } ss To His Excellcy Joseph Bndley Esqr. Capt Gen^l & Governor in
Massachusetts Bay } Chiefe in & over her Majties said Province and vice-Admiral of the same. And to the honble Council and Representatives convened in gen^l Assembly in and for the said Province

The humble Petition of Maj^r John Cutler of Charlestowne

Sheweth

That whereas yor sd Petr was lately hon^{ed} with a Comission from his sd Excellcy to be a Maj^r of some of her Majties forces raised agt the french & Indians, and served in that station in the Eastern parts of this province, with all fidelity & honesty. Yet soe it is may it please yor Excellcy & hono^rs that some evil & ill disposed persons have made complaints to yor Excellcy & hono^rs agt yor petr for severall misdemeano^rs pretended to be comitted by yor petr in his aforesd Capacity, thereby designeing to get applause & hono^r to themselves, and to ruine yor petr and family, and to deprive him of his Comission, hono^r and reputation, and of his pay also.

Yor petr therefore most humbly prays that yor Excellcy and hono^rs will be pleased to take the premisses into yor serious Consideration and permit yor petr to vindicate himselfe from the calumnies and accusations laid agt him, before yor Excellcy and hono^rs and also order yor petr pay to be given to him & his servant, wch is now stopped upon the aforesd Complaints And yor petr as in duty bound will ever pray &c.

JOHN CUTLER." — *Ibid.*,

p. 13.

"The Proceedings of a Court Martiall so called to be held at Newberry Feb: 10th on Thursday, but held on Friday. Feb: 11th 1703 the Major Generall assembled with 12 more, viz: Coll: Pierce, Coll: Noyce, Major Wainwright, Major Saltonstall, Capt Summersbee, Capt Boington, Capt True, Capt Brown Capt Irebel, Capt March, Capt Wadly, Capt Pier-son. Major Davison Clerk

A Souldier came to my Chamber, and said the Major Generall would speak with me; who when I came in said to the Clerk, read the Evidence; I prayed liberty to speak before Evidence was read, and then prayed a sight of my Accusation signed by my Accusers, and it was denied me; I refused to plead without it, and denied the Jurisdiction of that Court. There was no opening the Court, no Commission read, no Judges sworn as the Law for Courts Martiall directs, no standard flying no persons admitted into the room the Judges as it was said were sworn to secrecy. I pray,d my Pleas might be enter,d, but it was refused although Mony was offer,d the Clerk for it I was told I should not have liberty of this Province law but be tryed by a law to me unknown. I was told by the Judge I had cheated the Queen before I had spoken one word for myself, or had put in any Evidence I was threatned with a prison, for saying this was not a Court Martiall here established by law, and yt the Queens Law for Courts Martiall in Flanders was not the law of this Province. I had no Accensation laid, Mutiny Desertion or Sedition were the only things tryable in a Court Martiall. The new Law for forming a Court Martiall was made since the facts were said to be Committed. I was brought in by a Souldier on Saturday and then asked if I would plead; I then as before denied the Jurisdiction of the Court, and pray,d Conneelt, but was told I should have none, nor any Copy of my Accusation, then on Saturday I was brought in again, and then asked what my Conneelt said, I answer,d your Honours allow,d me none, then the Judge said what have you to say for your self; I answer,d as before then Sentence was read, I was then told there was a Copy of my Accusation, I demanded a copy of my Sentence but was denied it.

J^{no} CUTLER." — *Ibid.*,

p. 14.

These papers were then "sent up" to the Council, whereupon, on the same day, the Board passed the following order, and sent it to the representatives, for concurrence:—

“March. 21^o 1703. In Council

The Council being well Satisfied by the Account given at the Board by the Honorable the Lieut Govern^r referring to the proceeding of the Court Martial against Major Cutler That the representation Signed by him and sent into this Court, is very false and full of Insinuations tending to the Hurt of Her Majesty's Government, have and do direct that the said Cutler be sent for before m^r Secretary Addington and bound over with Surety's, to the next Superiour Court to be holden within the County of Middlesex to Answer for his false and evil Suggestions in the said Paper, And that he be of good behaviour in the mean time.” — *Ibid.*, p. 27.

The House declined to act, for the reason given in the following vote:—

“In the House of Representatives March 22: 1703. Resolved That it is necessary that Copies of the Establishm^t & Proceedings of the Court Martial be laid before this House, in order to their passing upon the abovementioned vote.

JAM^s CONVERSE speaker.” — *Ibid.*

The order having been returned to the Council with this vote of the House thereon, the former immediately transmitted to the House the copy of the record of the trial and sentence of the court-martial as printed above, where it was read on the same day, and thereupon the following vote was passed:—

“In the House of Representatives March 22: 1703

The Question being Put whether the House Concurr with the Board in their vote on the other side?

It Pass'd in the negative.*

JAM^s CONVERSE speaker.” — *Ibid.*, p. 28.

No further action appears to have been taken in the matter until the next session, when Matthew Perkins presented the following petition and “bill of cost:”—

“To his Excellency Joseph Dudley Esq^r Govern^r, &c. & y^e Hon^{ble} Councill & Representatives In Gen^l Court Assembled. y^e 18th Apr^l 1704

The Humble petition of Mathew perkins in behalf of himself & senerall Souldiers.

May it please y^{or} Excellency & Hon^s. your petitioner being Impruved in Her Majesties service as Leut^t under Capt. J^{no} Cutler Last year: observing as he thought some by steps y^t sd Capt. took in y^e time of being under his Comand: Could not, but In Conscience declare, & make discouery of y^e same to y^{or} Excellency & Hon^s: which to y^{or} Excellency & Hon^s appear, d Notorious, being p^ujudicial, & Injurious to y^e province & p^uticuler souldiers & others: & soe Ill Resented y^t y^{or} Excellency & Hon^s appoynted his tryall by a Court Marshall at Newberry: my self & others being sumoned, we as in duty bound gave our attendance, & Evidences Relateing to his Crimes, & he being Conuicted; sentence past agst him for y^e paym^t of senerall persons y^e Respective Sums he had exhausted from them all amounting to about four pounds, to stand comitt^d till sentence was p^uformed; as also to pay y^e costs of sd Court Notwthstanding which sentence y^e sayd Souldiers have not Received y^t senerall snms orderd to be paid by sd Cutler to them (nor y^{or} petitioner) for their time and expences in attendance at said Court: a bill of w^{ch} Cost is p^usent wth this petition.

Your petitioner Humbly prays y^{or} Excellencies & Hon^s pious Consideration; that we y^t were sumoned & Attended sd Court may have such suitable Compensation made us as y^e sd Court orderd for y^e mony y^t was drawne from y^m: & for their attendance at sd Court as in y^{or} Excellencies & Hon^s wisdom & prudence you shall Judg meet, y^t wee may not be the only sufferers for attending our duty: who for y^{or} Hon^s shall still pray.

MATTHEW PERKINS.” — *Ibid.*,

p. 199.

“Left mathew pirkins. his: bill of Cost Against major John Cutler at A Court marshall houlden at mbery february: the tenth 1703: As: followeth—

for the under Sherrifs: Sumansing of euenedes According to A warrant Giuen out by: John wainwright esq^r one of har majestyes: Justeses:

for: y ^e warrant & sumanes:	00	05	— 00
in Ipswich nine persons: & sumansing of them 12 ^d Apes:	00	09	— 00
& thayr Attending foure dayes: each: person 2/ 3 ^r day:	03	12	— 00:
Sumansed At boxford thre: persons: at boxford:	00	09	— 00
thair Attendanc: at Court four dayes each:	01	04	— 00
Sumansing of two: persons at topsfeild:	00	05	— 00:
& for thayer Attendanc at Court four dayes each:	00	16	— 00:
Sumansing of two: persons: at Rowly:	00	01	— 09
for sumansing of one At mistick:	00	06	— 00:
& for thair Attendanc: one foure dayes:	00	08	— 00
& y ^e other six dayes:	00	12	= 00
Sumansing of fouer from Glossestor & tranell:	00	15	— 00:
for thayer Attendanc: four dayes: each: person:	01	12	— 00
Sumansing two: from wenham & tranell:	00	05	00:
for thayr Attendanc four dayes Each person:	00	16	= 00:
for sumansing of thre at yorke & Sammon falles:	00	00	— 00
with tranell:	01	10	— 00
thayer being sworn before Justis: tribble: † at yorke:	00	04	00:
for y ^e oflessar Retorning of y ^e names of y ^e persons: }	00	00	00:
sumansed which are Above named was two dayes }	00	04	00

MATTHEW PERKINS.”

— *Ibid.*, p. 200.

* No record of any judicial proceedings against Cutler in the common-law courts has been discovered.

† Sic: l'preble.

On the twenty-first the House "Ordered That the further Consideracon of this Petition be referred to the next Session of this Court."*

In the next Assembly the subject was resumed June 28, 1704. Perkins's former petition, presented at the April session previous, was again read in the House and sent up, but no further action thereon appears of record until the first session of the General Court of 1706-7.

On the twenty-fifth of June, 1706, another petition presented by Perkins was read in the House and ordered to be committed. It ran as follows:—

"To His Excellencie, Joseph Dudley, Esq^r Capt: General, and Govern^r of the Province of the Massachusetts Bay, in New England: And Honourable Council, And Representatives, Assembled in General Court at Boston May: 29th 1706.

The Humble Motion, and Supplication of Mathew Perkins, of Ipswich, is as followeth, Whereas, I Petitioned your Excellencies, and Honours, to Consider the Cost, and Charge that I was at, in Prosecuting Captain John Cutler, for His Ill Management of Himself, in the Conduct, Committed to Him, at the Eastward, when I was His Lieutenant, by reason of His Imbezling, the Stores Committed to Him, and taking Money, of Soldiers, to Obtain their Release, when (By His Excellencie) they were Discharged from the Service; By Reason of your Multiplicity of Busines, and other Weighty Affairs then Impending, I had no Allowance made, for said Charges, that I Expected would have been Discharg'd, at that Court Martial, that Sentenced Him, and Condemned Him for the said Irregularities, which I formerly Craved Your Allowance of: I am Constrained again, to Renew my suit in that respect, which in sum, amounteth vnto Thirteen Pounds, and Ten shillings; for that I am not able to bare the said Charge, without great Damage to My Family.

Therefore I Pray, Your Excellencies, and Honours, farther Consideration at this Time, if it may be; I believing, that therein you, will do God, and the Province good service, in not Discouraging, but Countenancing such, as shall make future Discoveries of any, that may be Offenders in the like Kind, if any Happen to be. I am sorry, that I am forced to put you, in Remembrance hereof; And, were I able, to Pay the Charges, that I was Necessitated to be at, with respect to Witnesses, that then attended; I should not have given You the Trouble, of Perring this further Motion. But in Hopes, to be Heard at this Time, (When Publique Affairs do not so much, or greatly Incumber Your Hands,) I Crane, and Beg in all Humillity, of Your Excellencie, and Honours, That I may have Justice done vnto me, who am Humbly Desirerous, to Serue Your Excellency, and Honours, to the vtmost of my Ability, as You shall Employ me at all Times. So still Prayeth, Your Excellencies, and Honours, Most Humble, and lowly servant.

MATTHEW PERKINS."—*Ibid.*,

p. 198.

On the twenty-sixth this petition was again read in the House and the order which constitutes this chapter was thereupon passed with the following preamble thereto:—

"Whereas the Petitioner being Examined by this House, before the Prosecution of Maj^r Cutler for his Mismanagem^t of himself, in the Betrustment, Committed to him and was not only Desired, but Enjoyed, by the sd^d House to Prosecute him for the same."—*Ibid.*

The order was concurred in by the Council, and consented to by the Governor on the same day.

A warrant for paying to Perkins the sum voted in this chapter was ordered† July 18, 1706, and the province treasurer's account‡ shows that it was paid accordingly.

Chap. 22. This chapter is from council records, vol. VIII., p. 211. It is preserved in archives, vol. 71, p. 229.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esq^r Capt^l Gen^l & Gov^r in Chief in & over her Mat^y Province of the Massachusetts Bay, in Connell, & to the hon^{ble} hous of Representatives The Remonstrance and Petition of Maj^r Willm^m Whiting of Harford in the Connecticut Colony

humbly Shewth

That in the year 1704 his Ex^{cy} order'd That Scouts should be sent out towards Cowasset and there being but one man that offer'd himselfe in the County of Hampshire, your Pet^r; at the direction of Coll^l Patrick, did speedily procure five brisk Indians, who as volunteers performed this service, killed seven of the Enemy's Indians, and bro^t with them six of their scalps; Wherevpon your Pet^r for their reward & Encouragm^t, advanced and paid them 40^{li} out of his pocket, not doubting, (the Expedition being so prosperous, & on the acct^o of this Governm^t) the money wou'd be reimburs'd him on the first application

Yor Pet^r therefore hopes this hon^{ble} Court on consideration hereof will not suffer him to be a personal Looser, for his sincere Endeav^rs to oblige his Ex^{cy}, and serve this hon^{ble} Governm^t

All w^{ch} is humbly submitted by. yor Ex^{cy} & hon^{rs} most humble & obedient serv^t

WILL. WHITING."—*Mass.*

Archives, vol. 71, p. 228.

This petition was read, first, in the House June 22, 1706, and the following resolve, probably reported by a committee, was passed thereon and sent to the Council, for concurrence:—

"Resolved That the Sum of forty Pounds, be Allowed and Paid out of the publick Treary to Maj^r Willm^m Whiting the Petitioner."—*Ibid.*

In the Council on the twenty-fifth the above resolve by the House was taken up, and thereupon the following vote was passed:—

* *Mass. Archives, vol. 71, p. 199.*

† *Executive Records of the Council, vol. 4, p. 295.*

‡ *Mass. Archives, vol. 122, p. 250.*

§ *Sic.*

"Read and not agreed with the Representatives in their Vote, as not being Indebted to Major Whiting; but are willing to present him for his good Services with that or any lesser Sum."—*Ibid.*

Upon receiving this vote of the Council, the House, on the same day, passed the resolve which constitutes this chapter, with the following additional clause after the word "province:" "and that otherwise he is like finally to Lose His money paid as aforesd," and prefaced the resolve with the following preamble:—

"Whereas Majr William Whiting the Petitioner Did Pay (as he Saies) the Sum of forty Pounds to the Indians mentioned in this Petition, in expectation of being Reimbursd by this Province, Supposing a Law thereof intituled the sd Indians to the sd Premium.

And Whereas He has made Application to the Government of Connecticott Colony, to whom of Right it appertains, to Reward the Services performed by the Souldiers in their Pay, as the sd Indians were: but can obtain nothing."—*Ibid.*, p. 229.

The resolve, with the preamble thus prepared, was sent to the Council, for concurrence, and agreed to on the next day with an amendment striking out the preamble and the additional clause aforesaid. On the twenty-seventh the House concurred in the resolve as thus amended.

See resolves, 1704-5, chapters 53 and 54, and notes, for further particulars relating to the service on account of which Whiting made the payment for which he was reimbursed in this chapter.

The order in Council* for the payment of this allowance was passed July 18, 1706, and the province treasurer's account† shows that it was paid.

Chap. 23. This chapter is from council records, vol. VIII., p. 211. It has not been found in the archives.

The following is the entry in the province treasurer's account of the payment of the amount allowed by this chapter:—

"Paid Francis Addames Consta. of Plymouth for a Counterfeit Bill of
Creditt Allowed by ye General Assembly 1, —, —."
—*Mass. Archives*, vol. 122, p. 281.

Chap. 24. This chapter is from council records, vol. VIII., p. 212. It has not been found in the archives. See note to vote, chapter 19, 1705-6.

Chap. 25. This chapter is from archives, vol. 47, p. 248. It is recorded in council records, vol. VIII., p. 213.

No copy of the collection of laws authorized by this chapter has been discovered in the public archives or in the libraries of the leading historical societies.

See resolves, 1696-7, chapters 57 and 78, and notes.

Chap. 26. This chapter is from archives, vol. 71, p. 231. It is recorded in council records, vol. VIII., p. 214.

See note to chapter 2, *ante*.

The following is the order in Council delegating the authority conferred in it to the province treasurer:—

"Sept. 25, 1706. Pursuant to a Resolve pass'd by the General Assembly at their Session begun the 29th of May last, that his Excellency and Council be desired by the first opportunity to send for as much Salt Petre, as can be purchased for one hundred pounds sterling, and a suitable proportion of Sulphur, for the use of the province.

Ordered. That Mr Treasurer Taylor be directed to treat and agree with some person or persons on the best terms he may to send for and procure a Quantity of Petre and Sulphur to the value above mentioned.

J: DUDLEY."—*Executive Records of the Council*, vol. 4, p. 321.

The resolve which constitutes this chapter originated in the House on the day of its passage.

See chapter 119, *post*.

Chap. 27. This chapter is from archives, vol. 71, p. 232. It is recorded in council records, vol. VIII., p. 214.

The following is the record of the appointment of the committee‡ whose report is given in this chapter:—

* Executive Records of the Council, vol. 4, p. 295.

† *Mass. Archives*, vol. 122, p. 280.

‡ The town of Boston had already appointed a committee charged, among other things, to consider and report a plan for securing the powder within the town, as appears by the following vote:—

"June the 10th 1706. . . . Voted, that a Committee be apointed to Consider of what shall be needfull to be done about Fortifying the Town for its defence against the Enemy: and that the sd Committee do make application to his Excellency the Governor for his Approbation therein. And to make report to the next Town meeting of what they Shall thinke proper to to [sic] Lay before the Town relating therunto.

Elisba Cook, Esqr., Elisba Hutchinson Esqr. Penn Townesend Esqr., Coll^d. Samuell Checkley, & Capt. Oliver Noyes are chosen to be of sd Committee.

Voted that the sd Committee do also make report to the next Town [sic] meeting of what they Shall thinke proper to be done for Securing the Powder within this Town."—*Town Records*, 1700-1728, p. 39.

This committee reported at a town meeting held on the twelfth that they had conferred with the Governor and had received his "free approbation and consent" for the inhabitants to proceed to fortify the town according to proposals submitted by the committee and which they then presented. Whereupon the town passed several votes (none of which, however, related to the storing of gunpowder), printed in the town records, *ut supra*, page 40, and on page 586, *ante*.

"In the House of Representatives. June 28: 1706

Ordered That Cole Checkley Mr. Eliz^r Holyoke, and Capt: Nathan^l Carey be a Committee to Joine with Such, as the Hon^{ble} Board shall Appoint, to Consider of some proper Method for the safe Keeping, & Preserving, the Gunpowder that is, or shall be Imported into the Towns of Boston, & Charlestown, and make Report as soon as conveniently may be, to this Court.

Sent up for Concurrence

THOMAS OAKES Spear

Die p^{dict}. In Council. Read and agreed to, And Elisha Hutchinson John Phillips and John Foster Esq^rs named a Committee of the Board to joine the Committee of the Representatives in the affair aboves^d

ISA^d ADDINGTON Secr." — *Mass.*

Archives, vol. 71, p. 230.

The order which constitutes this chapter originated in the House on the day of its passage.

One week after the date of this chapter the act* for erecting a powder-house within the town of Boston was passed.

The total outlay for this structure seems to have been not less than six hundred pounds.

Warrants† for one hundred pounds, one hundred pounds, two hundred pounds, and two hundred pounds, respectively, were severally drawn January 14, 1706-7; June 5, 1708; August 28, 1708; and March 10, 1708-9, and the province treasurer's accounts ‡ show that these were paid.

See resolves, 1708-9, chapter 142 and note.

Chap. 28. This chapter is from council records, vol. VIII., p. 215. It has not been found in the archives.

The hearing upon Allen's "remonstrance and petition" was appointed for the first week of the first session of the Legislature of 1705-6, and the persons claiming the estate were to be notified thereof.¶ Accordingly, on the first day of June, which was the third day of the session, the petition was again read in the House and the following order passed thereon and sent to the Council, for concurrence:—

"Ordered That the Praier of this Petition be Granted, & a Hearing Attended, forthwith, if both Parties are prepared for it otherwise on the next Tuesday at 3 a clock afternoon." ||

"Upon Reading whereof [in the Council on the same day] & Debate thereon A Message was sent by Elisha Hutchinson, John Foster, Penn Townsend Esq^rs & the Secry. to the Representatives, to lay before that House the Consideration how far it is proper for this Court to enter into that Cause, The whole Matter referring to Wills & Instruments &c by the present Charter being in the Government of the Governour & Council, And the Judgement now petition'd to be reversed being of near thirty Years standing under another Constitution, The Members of that Court & the Persons concerned being almost all dead, The Alterations since made of the Estate & the Statute of Limitation having Effect, Besides the Train of Consequences attending the Unravelling of Matters determined by the Supream Court within the Government at that Time." — *Council Records, vol. VIII., p. 120.*

At this stage the petition was met by the following answer of Edward and Rebecca Watts of London:—

"To his Excellency Joseph Dudley, Esq^r Capt^l General and Govern^r in Chief in and over her Maj^{ties} Province of the Massachusetts Bay in New England the Hon^{ble} her Maj^{ties} Council and House of Representatives now in General assembly convened in and for sd Province. may 30th 1705.

The Answer of Edward Watts of the City of London Merch^t and Rebecca his wife Claimers owners & possessors of the Estate formerly Richard Bellinghams Esq^r Deced, To a Petition of James Allen of Boston Clerk.

Sheweth

That true it is, as the Petitioner settts forth That Richard Bellingham late of Boston afores^d Esq^r Deced, dyed seised of a very Considerable Estate in Houses and Lands, and there was also a sort of a last will & Testament to the purport of what the petitioner settts forth, which was pretended to be the sd Bellingham's, tho^o for very wise and just Reasons declared and adjudged to be void and of none Effect by the General Court of this Country Anno 1676. the Judgment of which Court yor Respondent hopes this great and General assembly will not suffer now to be called in Question, much less Revers'd, and therefore yor Respondent opposes the petitioners being heard vpon his Petition. and

I whereas yor Petitioner in his first Reason saith That that Court at that time had not the Jurisdiction or Cognizance of Wills but the County Court only. Yor Respondent answers, That true it is, the County Courts at that time had the Cognizance of Wills &c: But from whence did they derive it, but from the General Court, who therefore had power in extraordinary Cases when they saw occasion to Exert that power themselves, it being too great a thing for any Inferiour Court to make void a Will that might have the Common proof attending of it: *omne majus continet in se minus*, is a known Rule in Law. Besides, this pretended Will of Mr Bellinghams had Laboured so long in the Inferiour Courts without any Effect or Issue, That the General Court were Resolved to take it into their own hands, & make a final Issue thereof, especially having directions so to do from y^e Crown of England, and with all submission yor Respondent humbly offers, that the General Court under the first Charter, except in some few things had the same powers and authority that the present General Assembly hath, as being the supreme and Legislative power of the Country.

* Province Laws, 1706-7, chapter 4 and note.

† Executive Records of the Council, vol. 4, pp. 369, 577, 619, and vol. 5, p. 37.

‡ Mass. Archives, vol. 122, pp. 233, 309.

§ See chapter 116 of the resolves of 1704-5.

|| Mass. Archives, vol. 17, p. 134.

2 Whereas the Petitioner urges, that the sd Will was really and *bonâ fide* the last Will and Testament of ye sd Richard Bellingham Esq^r deced and so prov'd to be and not all the English Laws could sett aside or Controul such a Will. Yor Respondent answers

(1) That there are many things absolutely Necessary to make a last Will and Testament good according to Law, for thò the sd Bellingham might towards his Death sign that Instrument called his Will, yet if he were then *non Compos*, and understood not what he did, but managed and Imposed on by others, or if the Writing it self had not the nature of a Will in it, the General Court had very great and good Reason for what they did.

2 It shall not now be with the Petitioner to say the sd will was a good Will &c when a General Court has passed upon it and determined it to be no Will; and that no doubt with due regard to the Laws of England; and with a just value of Last Wills and Testaments.

3. Yor Respondent opposes the hearing of this matter for the great Inconveniency of it
1 In General, That the Acts of the General Courts of this Country, should after so long a time be reexamin'd or Revers'd.

2 ffor that since this Judgment of the General Court in 1676. there have been so many purchases Mortgages and Conveyances of that Estate, that an unspeakable mischief and Confusion would Ensue now to Reverse it.

4. Yor Respondent prays it may be Considerd how strange & unreasonable it will be for this great and General Assembly to raise a Will to Life again that has been buried near thirty years : or rather in truth to make a Will at this day, for the sd M^r Bellingham. for no doubt of it, the petitioner in the day of it made the strongest Efforts that could be made to support the Will, & yet all fail'd., & certainly if his proof would not serve him then, it can never be supposed to do so now.

5. Yor Respond^t opposes a hearing for that the Petitioner really petitions that a Will be made for the sd Bellingham, for he prays for a power to dispose of his Estate so, & so, whereas in the very Instrum^t which the petitioner would have a Will, M^r Bellingham devises not one jot of his Estate to his ffeoffees nor could they by Law (had that Will stood to this Day) ever have medled with any of the real Estate of M^r Bellingham without the Consent of his heir at Law.

6 ffor that by the Law of this Province now in being for the Quieting of men's Possessions, not only all actions in Courts of Law, but also all Processes are forbidden after the time limited by that act, and Yor Respondents and those they Claim under having been at all times in the peaceable possession of the sd Estate, therefore hope this great and General Assembly will support and maintain their own Laws, by allowing no further proceeding in this matter. And upon the Whole yor Respondents hope This great and General Assembly will do that Justice and Honor to the former General Court of this Country as to Ratify and Confirm their Judgment in reference to M^r Bellingham's pretended Will by Dismissing the petitioner.

and yor Respondent shall ever pray

Boston. 1. June. 1705.

PAUL DUDLEY

pro Respondentibus." — *Mass.*

Archives, vol. 17, p. 150.

This answer was presented on the day of its date and read, first, in the Council and sent to the House, where it was read twice on that day.

On the fourteenth the following order was passed by the House and sent to the Council for concurrence : —

"Ordered That a previous Hearing be Attended before this Court, on this answer, & M^r Allen Serv'd with a Copy thereof the Board to appoint the time." — *Ibid.*, p. 152.

On the twentieth the Council voted not to concur in this last order. Here the matter seems to have rested until the fourth of July, 1706, when both branches agreed upon the order which constitutes this chapter.

Some time after the passage of this chapter, the House seems to have revived its vote of June 14, 1705, for ordering a hearing on Allen's petition without notice to adverse claimants; for on the thirteenth of July such a vote was read in the Council and "disagreed to."

On the twenty-seventh of August, being the twenty-first day of the next session, Allen's petition "and the order of the representatives thereon" were read in the Council; but on the twenty-ninth this order was disagreed to by the Board. Five days later the following entry appears in the legislative record of the Council : —

"Sept. 3, 1706. A Resolve pass'd this Day in the House of Representatives upon the Petition of M^r James Allen; Viz, That the Will of the late Rich^d Bellingham Esq^r refer'd to in the Petition was legally proved, Being Read at the Board, & Voted that the annex'd Print being a very faulty Copy, & without the Attestation of an Officer, ought not to be received or Considered by the Court; And further Considering that the Probate of Wills & Testaments is by the Charter vested in the Governour & Council, The Council therefore Disagree to the Vote of the Representatives." — *Council Records, vol. VIII., p. 241.*

In the third session the subject was resumed, and the petitioner and M^r Stoddard were permitted "to offer any further Pleas in Writing for Confirmation thereof."* This was on the sixth of November, and, on the next day, additional pleas were accordingly offered and an order was thereupon passed "that M^r Joseph Hiller Attorney of Edward Watys have a Copy thereof, & forthwith make Answer, If he see Cause."*

On the ninth, the case was disposed of, for the time being, by the nonconcurrence of the Council. Hiller having filed an answer to the pleas of Allen and Stoddard, "a previous Vote was put, Whether the Council would be ask'd upon the" above resolve of the House. This having been decided in the affirmative, the question was put whether the Council concurred in the resolve, and it was voted in the negative. A third vote was thereupon passed, permitting any of the Council to "draw up & offer to Consideration some Thing in Lieu of the afore said Resolve."†

* Council Records, vol. VIII., p. 254.

† *Ibid.*, pp. 255, 256.

At this stage, Judge Sewall, who was about to set out for Salem on the next day to attend the November term of the Superior Court, wrote, on Sunday, the tenth of November, to Wait Winthrop, his friend and associate in the Council, reminding him of "two things of very great moment now before them," on one of which he comments as follows:—

"... As to Mr Bellingham's will, Mr Allen seems to insinuat it was written by himself, whereas it is Mr Allen's own hand; and there is a base reflection upon Mr Sam^l Bellingham, a worthy gent. Indeed I have purchased a small peice of land y^e was Gov^r Bellingham's; but it is not mentioned in y^e will at all, and I hold it of the heir. However, it would be much more for my interest to have y^e Winnisnet lands go to settle a minister there than otherwise, tho I should lose my purchase; and yet I canot see with what face we can go about now to set up that will, thirty years after its being declared null by the Gen^l Court that then was. That is most certain which by contest, & after contest (*ex dubio*), is made certain. I fear it would be much to the dishonor of God, as things now stand with us, to undo that w^{ch} was done in 1676, when parties and witnesses were alive. It would in probability create a great deal of trouble to the Province, and come to nothing in the end. We should be thought unjustly selfish, unwilling y^e estate should go to persons in England." — *Winthrop Papers, part VI., p. 148.*

Another effort to annul the decree disallowing Bellingham's will was made November 15, 1709, when it is recorded that upon reading an address signed by several of the clergy and the "Resolve pass'd thereon in the House of Representatives Viz,

That the Act of the General Court Septem^r 6th 1676, referring to the Will mentioned in this Petition was wrong & ought to be made null & void: — Voted a Non-Concurrence."*

No further action upon the matter of Bellingham's will has been discovered, in either the legislative or executive records of the Council. Bellingham's estate included four considerable farms at Winnisimmet, now Chelsea. For nearly a century numerous suits-at-law grew out of the question of the probate of the will, and of its construction. The facts relating to these suits and to other historical incidents concerning the descent and division of Bellingham's farms at Winnisimmet have been industriously gathered by the Hon. Mellen Chamberlain, and published by instalments in the Chelsea Telegraph and Pioneer. A collection of these contributions bound together under the title of "Studies in Chelsea History" is in the library of the New England Historic-Genealogical Society.

Chap. 30. This chapter is from archives, vol. 62, p. 530. It is recorded in council records, vol. VIII., p. 216.

For an account of Coffin and the particulars of his offence and trial, see note to private act, number nineteen.

Chap. 31. This chapter is from council records, vol. VIII., p. 216. It has not been found in the archives.

The order in Council† for the payment of the allowance granted by this chapter was passed July 18, 1706, and the province treasurer's account‡ shows that it was paid.

Chap. 33. This chapter is from council records, vol. VIII., p. 217, and archives, vol. 101, p. 311.

The account of the committee mentioned in the preamble to the resolve which constitutes this chapter was as follows:—

"The Province of Massachusetts Bay is Dr for Charges in Makeing 5000 th Bills				
1705/6	To the Committee That were Appointed to make the Said Bills &	li	s	d
February	pay them to y ^e Treasur ^r	28	0	0
	To Joseph Allin for printing 1334 Sheets and other Charges			
	thereon as p ^d Accompt.	11	10	5
	To Widdo Sanage p ^d 3 Reams of paper 28 ^s	£.4	4	0
<i>Somma</i>		£43	14	5

MD^{ca} There is Still remaining in the Committees hands florty Six Twenty Shilling Bills that are fit to be Signel, & som other bills not fit for Service besides the five Thousand pounds paid the Treasurer as Attests

JA RUSSELL in y^e Behalf of the Committee." — *Mass. Archives, vol. 101, p. 311.*

This account was read, first, in the House July 6, 1706, and the resolve thereon passed and sent to the Council, for concurrence. On the same day it was concurred in, and consented to by the Governor.

The order in Council† for the payment of the allowance granted by this chapter was passed July 18, 1706, and the province treasurer's account‡ shows that it was paid.

Chap. 34. This chapter is from council records, vol. VIII., p. 217, and archives, vol. 31, p. 8.

The following is the petition mentioned in the preamble to the resolve which constitutes this chapter:—

"To his Excellency Joseph Dudley Esq^r Cap^t Gen^l and Governo^r in Chief in and over her Majesties Province of the Massachusetts Bay And To the Hon^{ble} the Council and House of Representatives now in General Court assembled May 29th 1706. —

* Connell Records, vol. VIII., p. 502.

† Executive Records of the Council, vol. 4, p. 294.

‡ Mass. Archives, vol. 122, p. 275.

The humble Petition of Ben Indian of Seituate—

Sheweth

That yo^r Petitioner presented his Petition to the great and Great * and General Assembly the last year† setting forth That he was wounded att Passamaquadi under Colo^y Churchs Command in her Majesties service against the french &c insonmuch That he was utterly disabled having lost the use of his hand by a shott—upon Consideracon of which Petition the Hono^{ble} the House of Representatives were pleased to allow yo^r Petitioner a sum of money, but the s^d Petition never went into the upper house, so that yo^r Petitioner received no benefit thereby.

Yo^r Petitioner therefore humbly Prays the favour of this great and General Assembly to take the premisses into their serious Consideration and Grant him such allowance as they in their Charity and Goodness, shall see meet.

And yo^r Petitioner (as in duty bound) shall ever pray &c.

his
BEN X INDIAN." — *Mass.*
marke

Archives, vol. 31, p. 7.

The resolve on this petition was passed in the House on the fifth of July and sent to the Council, for concurrence. On the eighth it was read and concurred in, and consented to by the Governor.

The first order for a warrant to the province treasurer under this chapter was as follows:—

"July 18, 1706. To Ben-Indian wounded in her Majty's service the sum of three ponnbs for smart money to be put into the hands of the select men — of Situate, to be paid out to him as they shall judge best for his supply & support." — *Executive Records of the Council, vol. 4, p. 295.*

It would seem that the Indian did not avail himself of the permission to serve as a private sentinel, so the foregoing order was suspended the next year by the following vote:—

"Aug. 14, 1707. Pursuant to a Resolve by the General Assembly at their Session in May 1706. viz: that Ben Indian of Situate, wounded in her Majesty's service be allowed three ponnbs for smart money, and forty shillings p^a annum for the next two years, one of which is expired, all to be paid to the select men of Situate, to be laid out for him according as they shall judge best for his supply and support.

Advised and Consented. That a Warrant be made out to the Treasnrer to pay the above mentioned sum of Five ponnbs to the Select men of Situate for the use of the said Ben Indian." — *Ibid., p. 453.*

The province treasurer's accounts show that this amount ‡ was paid and also that the selectmen were subsequently paid two ponnbs § more for his use.

Chap. 35. This chapter is from archives, vol. 101, p. 312. It is recorded in council records, vol. VIII., p. 218.

The following entry in the account of the province treasurer shows the charge made by him for the bills he was directed to receive under this chapter and also under chapter 37, *post*:—

"Paid Messrs Nehemiah Jewitt & Wm Denison for Sev^{ll} Bills of the Late Colony of the Massachusetts Bay wch are not Endorsed Allowed by the Generall Assembly — 16^u 6."
— *Mass. Archives, vol. 122, p. 281.*

Chap. 36. This chapter is from council records, vol. VIII., p. 218. It is preserved in archives, vol. 101, p. 309.

The resolve which constitutes this chapter originated in the House July 6, 1706, and was sent to the Council, for concurrence. In the Council it was read a first time on the eighth, and again on the ninth, when it was concurred in, and signed by the Governor.

Chap. 37. This chapter is from archives, vol. 62, p. 533. It is recorded in council records, vol. VIII., p. 219.

For the entry of the payment by the province treasurer of the bills he was authorized to receive under this chapter see note to chapter 35, *ante*.

Chap. 38. This chapter is from council records, vol. VIII., p. 220. It has not been found in the archives.

For an account of Phillips's offence, his arrest, prosecution and sentence see the notes to private acts, numbers nineteen and twenty-four.

The following is the proclamation issued in response to the message from the representatives:—

"By his Excellency Joseph Dudley Esq^r Captain General and Governo^r in Chief in and over Her Majesties Province of the Massachusetts Bay in New-England and Vice-Admiral of the same.

A Proclamation.—

Whereas John Phillips Jun^r of Charlestown Marin^r is accused of holding a false and illegal Trade with Her Majesties Enemies the French, and y^e Indian Rebels and Enemies in and about Nova Scotia and other parts and places Eastward, Giving them Supplies; And doth conceal and abscond himselfe.

I Do therefore, by the Advice of Her Majesties Council, hereby strictly Command and require on Her Majesties behalfe, the said John Phillips forthwith to render himselfe to

* *Sic.*

† This petition has not been found.

‡ *Mass. Archives, vol. 123, p. 29.*

§ *Ibid., vol. 122, p. 341.*

one of Her Majesties Justices of the Superiour Court of Judicature, to be Inquired of and Examined concerning his false and illegal Trade as above mentioned, and proceeded against according to Law

July, 10th 1706.

Archives, vol. 62, p. 532.

J DUDLEY." — *Mass.*

Chap. 39. This chapter is from council records, vol. VIII., p. 201, and archives, vol. 45, p. 342.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esq^r Gour In Chief oner her Majesties prvince of y^e Massachusetts Bay in New England & Hon^{ble} Councill & Representatives assembled In Gener^l Court, y^e 6th Sept 1705.

The Humble petition of Joseph parker of Groton is as Followeth.

May it please y^{or} Hon^{rs} to take notice of y^e suffering estate of Iszable Blood widow & Relict of Richard Blood of s^d Towne (who dyed Intestate:) he had three sons & one daughter who I Married vnto two of which sons dyed & lett smale children & the other tining being decreped & vnable to Manage his owne affaires & sustaine his family were not able to help his s^d Mother: soe y^t I was, as it were, Constrained to take the whole Care of her & the Lands being seittuate out of Towne I Could make little Improvement of them, s^d widow being about 99 y^{rs} of age & haneing Lost her sight & vnable to doe any thing towards a Linelyhood I haue kept now about 14 y^{rs}: she alwayes Intending to Make me Recompene out of her Lands desired Me to goe to y^e Indg of probate y^t she might be allowed to sell the Land her Inshand dyed seized of for y^t End: s^d Judg Informed y^t her sail would not be valled without an act of this Hon^{or}^d Court allowing & Impowring thereof: wherupon s^d widow desired me in her behalf to petition y^{or} Hon^{rs} for liberty to sell s^d Land; for to satisfie for her keeping hitherto; & what further she May stil need; as also for her funerall Expenees; she haneing noo other way to discharg ye same; or bo kept from becoming a Towne charg

Y^{or} petitioner humbly prayes that y^{or} Excellency & Hon^{rs} would in your wisdom & prudence pass such an act as y^t s^d widow May be enabled to Make me such Recompene as may be thought Just & Right; by selling such part of y^e Land as shall answer the ends afores^d

Y^{or} Excellenys & Hon^{rs} Most Humble Seru^t

JOSEPH PARKER." — *Mass.*

Archives, vol. 45, p. 341.

The petitioner, son of Joseph Parker (who is variously described as of Dunstable and of Chelmsford) by his first wife Margaret, was born at the latter town, March 30, 1653. He died at Groton, administration on his estate being granted June 24, 1725. The petition gives the parentage of his first wife.

Administration on the estate of Richard Blood was granted to his widow, October 7, 1684 at a County Court held at Cambridge.* The administratrix returned an inventory † in which the "house, land, upland and meadow" of the deceased were appraised at one hundred pounds.

The above petition was presented at the third session of 1705-6. It was read in the House on the third of November and referred to a committee, following whose report the House, on the sixth, voted that it "be referred to next session," etc. On the eleventh of June, 1706, it was again read in the House, and on the next day the following preamble and resolve were passed and sent to the Council, for concurrence:—

"In answer to the within Petition.

Resolved That all the Lands which Richard Blood, late of Groton deed^d Died seized of, lying in the s^d Town, be Given and Granted, to Joseph Parker, the Petitioner his Heires, and Assignes for ever in Considerac^{on} of the charge, the s^d Parker has been at, in the maintenance of the within mentioned Isabel Blood for fourteen years last past Provided that the s^d Parker Give her also a meet and comfortable Maintenance during her naturall life, and a decent funerall at her Decease." — *Ibid.*, p. 342.

On the thirteenth the Council refused to agree to this resolve but substituted therefor the resolve printed in this chapter. This was concurred in by the House on the twelfth of July, and consented to by the Governor.

In a petition ‡ presented by Parker to the Assembly in 1708, it appears that he had not availed himself of this legislative direction to the justices of the Superior Court, and so renewed his application.

Chap. 41. This chapter is from council records, vol. VIII., p. 221. It has not been found in the archives.

The order in Council § for the payment of the allowance granted by this chapter was passed July 18, 1706. The province treasurer's account || contains the charge of a payment of £23 5s. 4d., which includes the amount allowed by this chapter.

See resolves, 1703-4, chapter 110; 1704-5, chapter 90; and 1705-6, chapters 24 and 95, also note to chapter 111, *post*.

Chap. 42. This chapter is from council records, vol. VIII., p. 221, and archives, vol. 62, p. 531.

The petition mentioned in the preamble to this chapter is as follows:—

* Middlesex Registry of Probate (Files, No. 1274).

† *Ibid.*

‡ See note to resolve, 1708-9, chapter 46.

§ Executive Records of the Council, vol. 4, p. 295.

|| *Mass. Archives*, vol. 122, p. 276.

"To his Excellency Joseph Dudley Esq^r Captain General and Governour in Chief in and over Her Ma^ys Province of the Massachusetts Bay in New England & to the hon^{ble} the Council & Representatives of the same, now in General Assembly convened./—

The Petition of Nathaniel Viall late Master of the ship Dutches./—

Humbly sheweth

That whereas Your Petitioner lately arrived in the said ship from Jamaica, being very leaky & much damaged in her s^d Voyage, and upon a survey had upon the s^d Ship; she was judged Insufficient and Condemned and accordingly disposed of and broken up/—

Your Petitioner therefore humbly pray's, That your Excy and honours would be pleased to Consider the great loss and damage sustained by the Owners of the s^d ship (he being one) by means of her being broken up as aforesaid And remit the Tunnage or Dnty of Powder money, demanded by the Commissioner of Impost, And give Order accordingly./—

And yor Petr shall pray &c

Boston July 5th 1706./—
Archives, vol. 62, p. 531.

NATH VIALL." — *Mass.*

This petition was read, first, in the Council on the fifth of July and sent to the representatives. On the twelfth it was read in the House and the order thereon passed and sent to the Council for concurrence. On the same day it was concurred in, and consented to by the Governor.

"[Boston.] Foreign Inwards from Jamaica, *John Patison* Sloop Dove, *Nathaniel Viall* Ship Dutches." — *Boston News-Letter, No. 110. May 20 to 27, 1706.*

Chap. 43. This chapter is from council records, vol. VIII., p. 221, and archives, vol. 62, p. 524.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excy Joseph Dudley Esq^r Captain General and Governr in Chief in and over Her Ma^ys Province of the Massachusetts Bay in New England, And to the Hon^{ble} the Council and Representatives of y^e same now in General Court convened

The Petition of Louis Boucher of Boston Merch

Sheweth—

That some few months since the ship W^m & Mary Galley of London John Penrose Master came from Virginia to this Place to seek a freight being Consigned to your Petitioner for his Assistance to the Master in Obtaining the same, but the ship being Old, Leakey and much out of repair, a survey was made upon her, who Reported, That the Charge that must necessarily be expended to repair and fit her out would be more than she would be worth after such disburse, whereupon yor Petr Chose rather to let her be broken up than to be at so great a charge without prospect of Advantage

Yet so it is may it please yor Excy & honours That the Commissioner of Impost demands the Tunnage Dnty for the said ship, although she came hither in ballast only, has no way's traded nor will ever deport again out of this Port —

Yor Petitioner therefore humbly pray's, That the s^d Impost Officer may be Directed not to make any further demand thereof. —

LOUIS BOUCHER." — *Mass.*

Archives, vol. 62, p. 524.

This petition was read, first, in the Council June 14, 1706, and sent to the representatives. On the twelfth of July it was read in the House and the order thereon passed and sent to the Council, for concurrence, where it was immediately concurred in, and consented to by the Governor.

Chap. 44. This chapter is from council records, vol. VIII., p. 221, and archives, vol. 11, p. 212

The following is the petition mentioned in the preamble to this chapter:—

"Province of the To his Excellency Joseph Dudley Esq^r Cap^t Gen^l & Govern^r in chief & to the Hon^{ble} her Ma^ys Council, & house of Representatives now in Gen^l Assembly Conven'd & for s^d Province

The Humble Petition of Benjamin Choat now resident in Dearfield is as Followeth

May it please your Excellency & Hon^{rs} yor servant was desired by yor Hon^{rs} to supply the place of mr Williams at Dearfield, by dispenccing the word of god to them & in submission to yor Hon^{rs} I have According to my poor ability attended that service now about one year & halfe — for the first half year I was allowed (as I acct^d 20^l w^{ch} was al I received) out of the Province Treasury & the last year I have not received any thing whereby to discharge the person I am Indebted to for my Diett, The people there are poor & unable to make me any satisfaction, that If I can have noe Assistance from the Publick, I shal have little Encouragem^t to stay among them, I never had any Invitation or obligation from s^d Town, but in Obedience to yor Excellency & Hon^{rs} I have redily Obedied. That at such a dangerous time & place remote from my relations, and may I be found in a way of dnty I owe to God & Obedience to yor Hon^{rs} Comands, I Hope I shal not be unwilling still to Attend your service & theirs; in that Imploye that I wish & pray that I were more fit for, but under 40^l P Annm I pray yor Excy & Hon^{rs} I may not be comanded to Abide there: Yet craveing pardon for my boldness, I Humbly submit to yor Excellency & Hon^{rs} pleasure in the matter, ever Remembering that yor Hon^{rs} wil Acco^t the Laborer worthy of his hyre w^{ch} is the prayer of

Yor Excellencies & Hon^{rs} Most Obedient & willing Servant

BENJA CHOAT." — *Mass.*

Archives, vol. 11, p. 211.

This petition was read, first, in the Council June 26, 1706, and sent to the representatives. On the twenty-seventh it was read in the House and referred to a committee. On the twelfth of July the order which constitutes this chapter was passed in the House, apparently as reported by the committee, and sent to the Council, for concurrence. On the next day it was read and concurred in, and consented to by the Governor.

The following warrant was ordered to be drawn on the province treasurer for the payment of the allowance granted by this chapter: —

"July 18, 1706. To Mr Benjamin Choate Minister at Deerfield the sum of Twenty pounds, as a full recompence for his labours there, in the worke of the Ministry the year enur^t beginning the seventh of November last, over & above the twenty pounds, granted for the support of the Ministry in the sd^t Town of Deerfield." — *Executive Records of the Council*, vol. 4, p. 295.

For the payment of this allowance see note to chapter 72, *post*.

Chap. 45. This chapter is from archives, vol. 63, p. 27. It is recorded in council records, vol. VIII., p. 221.

The "proposal" which forms the basis of this chapter was passed by the House and sent to the Council July 11, 1706. The proceedings relating to the trials of the accused persons, and the sentence of each by private act in the nature of a "bill of attainder," are particularly recounted in the notes to private acts, numbers nineteen to twenty-five, inclusive.

Chap. 46. This chapter is from council records, vol. VIII., p. 222. It has not been found in the archives.

While the results of the address to the queen (1705-6, chapter 56) remained uncertain, the Governor forbore to urge the Assembly to comply with her majesty's commands in regard to fixed salaries. He therefore again consented to accept the legislative bounty granted in this chapter, which was tendered to him by a committee of the representatives consisting of "Lieut: Coll: Sam^l: Checkley, Coll: Church, M^r: Hollioke, Cpt: Savage, & Cpt: Carey."*

The only motion this session affecting the question of the salaries of the Governor and judges was the following, which seems to have met with no response: —

"July 13, 1706. A Message by Wait Winthrop, James Russell, Elisha Hutchinson, Penn Townsend, & Edward Bromfield Esq^{rs} to the Representatives to move the House to a further Consideration, and Augmentation of the Allowances to the Govern^r & the Judges." — *Council Records*, vol. VIII., p. 224.

The order in Council† for the payment of the allowance granted by this chapter was passed July 18, 1706.

This allowance and that granted by chapter 120, *post*, were paid by the province treasurer‡ in one sum.

Chap. 47. This chapter is from council records vol. VIII., p. 223. It has not been found in the archives.

The order in Council† for the payment of the allowance granted by this chapter was passed July 18, 1706, and the province treasurer's account§ shows that it was paid.

Chap. 48. This chapter is from council records, vol. VIII., p. 223. It has not been found in the archives.

A motion for a further consideration and augmentation of the judges' salaries was made by the Council July 13, 1706, but no action thereupon appears to have been taken.

The order in Council† for the payment of the allowances granted by this chapter was passed July 18, 1706, and the province treasurer's account‡ shows that they were paid.

See note to resolve, 1705-6, chapter 46.

Chap. 49. This chapter is from council records, vol. VIII., p. 223. It has not been found in the archives.

The order in Council† for the payment of the allowance granted by this chapter was passed July 18, 1706.

The allowances granted by this chapter and by chapter 123, *post*, were paid by the province treasurer§ in one sum.

Chap. 50. This chapter is from council records, vol. VIII., p. 223. It has not been found in the archives.

The order in Council|| for the payment of the allowance granted by this chapter was passed July 18, 1706, and the province treasurer's account¶ shows that it was paid.

Chap. 51. This chapter is from archives, vol. 62, p. 535. It is recorded in council records, vol. VIII., p. 223.

For the measures taken leading up to the order which constitutes this chapter, and for the action of the committee, see note to private act, number nineteen.

Chap. 52. This chapter is from archives, vol. 71, p. 233. It is recorded in council records, vol. VIII., p. 224.

For proceedings under this chapter, see chapter 70, *post*, and note.

Chap. 53. This chapter is from council records, vol. VIII., p. 224. It has not been found in the archives.

* Council Records, vol. VIII., p. 222.

† Executive Records of the Council, vol. 4, p. 294.

‡ Mass. Archives, vol. 122, p. 274.

§ *Ibid.*, p. 275.

|| Executive Records of the Council, vol. 4, p. 295.

¶ Mass. Archives, vol. 122, p. 276.

Amsden's petition was disposed of at the third session. See chapter 106, *post*, and note.

When the foot-note to this chapter, on page 184, *ante*, was prepared, the subjects chiefly in mind were the doings on the petitions of Waldo and Watkins. Sewall's account, given below, of the conduct of Governor Dudley in Lillie's case was not considered in connection with the recorded memoranda in that case.

Sewall's narrative is as follows :—

"June, 6. [1706]. . . This Court Mr. Lillie Prefer'd a Petition about his Reals not accepted by the Super. Court to go by Tale, which was Untrue in one material Article as to matter of fact, and the Justices much reflected on. Mr. Paul Dudley was Attorney for Mr. Lillie. I pray'd the Petition might be dismiss'd, or those Reflections abated: the Govt brake forth into a passionate Harangue. . . Finally, at another time it was agreed that there should be a Hearing, only Mr. Lillie should first come into Council, make some Acknowledgment, withdraw that Petition, and file another. The Govt was very hot and hard upon me at this time, inasmuch that I was provok'd to say, It was a Hardship upon me that the Governour's Son was Mr. Lillie's Attorney. At which the Govt Storm'd very much. Some days after Mr. Lillie came into Council. The Govt presently said, Sir, shall I speak for you, or will you speak for your self, and so fell a speaking— at last Mr. Lillie said with a low voice, I have prefer'd a Petition which I understand is not so satisfactory; I did not intend to reflect upon the Judges, and desire that petition may be withdrawn, and this filed in the room of it. Withdrew, Govt ask'd it might be so, and that the first petition might be Cast and Null. Secretary whisper'd the Govt that the Petition had been read twice in Council, whereupon the Govt took the pen and obliterated the Minute of its having been read on the head of the Petition. And then after the Hearing before the whole Court, when the Deputies were Returned, the Govt handled up the papers and sent them in to the House of Deputies, without asking the Council whether they would first go upon them, with whom the Petition was entered. After many days, the Deputies return'd the papers agen by Mr. Blagrove, expressing their desire that the Council would first act upon them, seeing the Petition was entred with the Secretary.

Some time after, the Govt sent in the Papers again, and then the Deputies voted upon them and sent it in, but before any thing was done in Council, the Court was prorogued to the 7th of August, &c., &c."—*Diary, vol. II., p. 162.*

The following entry in the legislative journals of the Council confirms Sewall's statement as to the hearing before the whole Court:—

"June 21, 1706. According to the Order pass'd the eighteenth Curr^t the Representatives upon a Message to come up to the Council Chamber attended the Hearing of the Complaint of Samuel Lilly contained in his Petition, All Parties concern'd being present; And the Papers were sent to the Representatives for that House first to consider of."—*Council Records, vol. VIII., p. 207.*

On the thirteenth of July the House passed the following resolves and sent them to the Council, for concurrence:—

"In answer to ye petition of Sam^l Lillie

Resolved y^t Qr peices at 16^d & Reals at 8^d qualifed as y^e law directes are a legall tender to pass by tale, which are to be Judged by ye eye & not ye Scale ye Law assigneing noe weight for them.

That ye sherriff ought to haue Examined y^e Qr peices & Reals payd by ye petitioner, & set aside such as were not according to law, & ye petitioner to haue had ye benefit of ye Rest passing by tale in paymt.

That If ye sum of Qr peices & Reals payd by y^e petitioner Can yet be produced upon Oath wthout alteration, ye sherriff shall separte such of them as are according to Law & y^e petitioner haue y^e benefit of them in ye paymt by Tale, what is not Lawful Money to be returned to ye petitioner, & what is wanting to be Made Good by ye petitioner

That If ye sd sum of Qr peices & Reals Cannot be had unaltered then ye Goldsmiths y^t examined them to render an acco^t upoⁿ Oath according to y^e best of their Judgm^t what number of them were according to Law, & what weight there was of Money not according to Law, & ye petitioner shall haue ye benefit of what was Legall by Tale & make up what is wanting in Legall Money & Mr Keeling & Channey shall returne y^e weight of ye Money reported by ye Goldsmiths to be not according to Law, to ye petitioner wth they may doe in peru or clipp Reals or Qr peices or both or othr money yt is Good Siluer."—*Mass. Archives, vol. 40, p. 855.*

On the same day Lillie's petition, with the others named, was, by this chapter, referred to the next session. On the twenty-ninth of November the House voted to revive the above resolves and sent their vote to the Council, but no further action upon it has been discovered.

The case of Faith Waldo, which by resolves, 1705-6, chapters 103 and 105, was continued to subsequent sessions, was again continued by this chapter. In the mean time, however, she had been heard, the persons adversely interested being present, as appears by the following entry:—

"June 25, 1706. Also Faith Waldoe Widow Reliet of Jeremiah Jackson late of Boston Mariner Dec'd was heard upon her Petition to be Impovered to make Sale of a House & Land of her said Husband Jackson's, Jeremiah Jackson only surviving Son & Heir of the afore said Jeremiah Jackson Dec'd being notified of the said Hearing, Appeared and made his Exceptions to the said Petition."—*Council Records, vol. VIII., p. 210.*

No further action upon her petition has been discovered.

Mrs. Waldo, by deed of grant and quitclaim, dated August 12, 1708, released to the said Jeremiah Jackson, whom she describes as her son, "All that messuage or tenement, with the land, members and appurres thereunto belonging which was my s^d late husband Jackson's, and whereof he dyed seized, lying situate in Boston aforesd fronting to a certain lane there, commonly called and known by the name of Atkinson's lane towards the west

with the land of Jonathan Balstone towards the North, with the land of Theodore Atkinson to the East, and with the land of James Webster to the South.*

The consideration named in this deed was "divers good causes and considerations mo thereto moving, more especially for and in consideration of the sum of sixty pounds in the present current money with the Merchant in New England."†

Abigail Watkins's petition, which had been likewise continued by chapters 104 and 106 of the resolves of 1705-6, was finally disposed of by chapter 138, *post*.

Chap. 54. This chapter is from council records, vol. VIII., p. 226. It has not been found in the archives.

It will be remembered that Dudley in his letter to Vaudreuil in July, 1705, had requested the latter to send a messenger by land to inform him what to do in regard to the exchange of prisoners, but that no reply had been received, and that Dudley had proposed to communicate with Canada by an Indian messenger from Albany. Upon the return of William Dudley and Vetch with Vaudreuil's draught of a treaty, and the failure to receive the cooperation of Cornbury, Governor Dudley laid before the Council the draught of an answer to Vaudreuil conformably to the advice of the Assembly of the thirtieth of November. The following is the record of the order of the Council thereupon:—

"Jan. 17, 1705-6. Agreeable to the Order of the General Assembly at their last Session, referring it to the Governor and Council, to return an answer to the propositions from M^r Vaudreuil Governor of Canada, referring to a Truce and Exchange of Prisoners &c.

His Excellency offered the draught of a Letter in answer thereto, which was read and approved, to be dispatch'd to Quebec by M^r John Shelden, attended with a servant or two and accompanied with two French prisoners of War.

Ordered that M^r Commissary General do advance the necessary clothing and provisions for M^r Shelden and his attendants &c. on their journey to Quebec, and bring the same to accompt.

J: DUDLEY."—*Executive Records of the Council*, vol. 4, p. 256.

By the statement of Shelden in his petition for compensation for his service, it appears that he had been engaged for the mission two days before† the passage of the above order of Council. No mention is made by him of the two French companions allowed him in the order, and there would be no evidence that Joseph Bradley of Haverhill, whose wife was in captivity, and John Wells of Deerfield were not appointed in their stead were it not for a passage in the letters which Vaudreuil wrote to Pontchartrain April 28 and 30, 1706 (the latter jointly with Raudot), in which the "two Frenchmen"‡ are expressly mentioned as having come with him. Bradley accepted the commission on the twentieth and Wells on the twenty-fifth, but just when they started on their journey to Canada has not been discovered.§ On the thirtieth of May an express from Albany to the Governor conveyed the intelligence of their safe arrival at Quebec,|| and by the twenty-fourth of June the News-Letter stated, "His Excellency the Governour has Account from Quebec, That M^r. Shelden his Messenger is well there, and is Returning by Sea with a number of the Prisoners, and may be daily expected."¶

The messengers sailed from Quebec in the French bark *Marie* bearing a flag of truce. The exact date of her departure does not appear, but it was evidently after the second of June, the date of the letter which Shelden brought from Vaudreuil to Dudley. Although Vetch contemptuously describes Shelden as "a Country Farmer who was not Master of the [French] Language nor of Address suitable to that Character"*** [i. e., of envoy], he seems to have been very successful in this business, having been employed on a similar errand the year before. He conducted the affair with notable economy, and so circumspectly as to have avoided giving offence to the Canadian authorities and people in arranging the details of the release of an unprecedentedly large number of prisoners, whom he brought safely home, much to the joy of their friends and kindred.

The *Marie* was detained for a long time at Port Royal, probably because of some question on the part of de Brouillon as to whether Vaudreuil's conditions for her proceeding thence had been complied with. She arrived in Boston on the first of August, bringing forty-four†† of the released captives in charge of Shelden and his companions. It would seem that the two Frenchmen who accompanied him to Canada were also of the party, one or both of them charged with a message from Vaudreuil to Dudley.

* Suffolk Registry of Deeds, lib. 24, fol. 263.

† That is, the fifteenth, the date of Dudley's letter to Vaudreuil. — "*Collection de Manuscrits*," etc., vol. II., p. 452.

‡ Probably these were Marchand and Kartier, who, according to Vaudreuil, had been sent to him by Dudley. — See Vaudreuil's letter of June 2, 1706, *post*.

§ Hon. George Sheldon in his History of Deerfield says that Shelden, Bradley and the two Frenchmen left Boston on the twentieth, that Wells joined them after their arrival at Deerfield, and that they all started thence for Canada on the twenty-fifth. But except a receipt from Partridge, dated the twenty-first of January, for money brought to the latter from Boston by Shelden, he cites no authority for these dates in the itinerary, and leaves us to infer that he got them from Shelden's petition, which is printed in the note to chapter 88, *post*.

|| In the Redeemed Captive "the beginning of March," 1706, is given as the date of Shelden's arrival in Canada, probably at Montreal. In the joint letter to Pontchartrain, hereafter quoted, dated at Quebec, April 30, 1706, Vaudreuil and Raudot state that he arrived there "about a month ago."

¶ No. 114. June 17 to 24, 1706.

** Private act, number twenty.

†† Vaudreuil gives the number as "forty-three;" the executive records of the council as "forty odd;" the News-Letter, and Penhallow, who seems to have followed that authority, say "forty-five;" while Shelden in his petition states that "they arrived here with forty-four of the said captives." These apparent discrepancies may be reconciled by the conjecture that Vaudreuil referred only to prisoners released by his authority, and that Shelden included one more, procured directly from the savages; and, in confirmation of the News-Letter's report, still another may have been added at Port Royal.

The following record of a meeting of the Council on the day after the arrival of the *Marie* shows that the Governor had received the long-looked-for reply from Vandreuil:—

"Aug. 2, 1706. His Excellency communicated to the Council his Letters and proposals relating to the Exchange of Prisoners received yesterday from Mr Vandreuil Governor of Canada, by a Flagg of Truce with forty odd English prisoners."—*Ibid.*, p. 303.

Unfortunately, no trace has been discovered of the existence of a copy of the letter from Dudley which evoked Vandreuil's reply above referred to. The joint letter from Vandreuil and Raudot to Pontchartrain, hereinbefore referred to, would seem to indicate conclusively that Dudley's failure to obtain the concurrence of the neighboring governments in the proposed treaty was the means of defeating the negotiations. The important portions of this letter are thus summarized by Pontchartrain:—

Monseigneur,

"Quebec, April 30,* 1706.

... Mr. Dudley sent to him [the *Sieur Vandreuil*] overland a deputy who arrived here about a month ago, who informs him that up to this time it has been impossible for him to confer with the other governors of New England, as had been requested, on the subject of the treaty.

The *Sieur de Vandreuil*, Monseigneur (seeing that this discourse only aims to gain time), in order to force them to conclude, has allowed several little parties of Indians to go to war against the government of Boston. We do not doubt that that will have the good result with regard to the English by hurrying them to conclude, and a still better one for the Indians, who, being entirely naked, on account of the dearth of goods and the low price of beaver, can find clothing among the English without expense to themselves.

Mr. Dudley also informs the *Sieur de Vandreuil* in his letters that he has sent away to Port Royal fifty-seven Acadian prisoners; which has been confirmed by two Frenchmen who came with his envoy. We are pledged to send him an equal number. To this end, we have chartered a vessel which will sail the end of the month . . .

VAUDREUIL.

RAUDOT."—*"Col-*

lection de Manuscrits," etc., vol. II., p. 451.

The letter which Vandreuil sent in reply to Dudley is not preserved in the state archives, but the following is a translation of it as it appears in the "*Collection de Manuscrits," etc.*:—

Sir:—

"Quebec, June 2, 1706.

I received the letter you wrote me dated the fifteenth of last January. I thank you for your obliging offer respecting my children, and I am sure that if they should ever find themselves in your government, you will entertain them to the best of your ability.

It is true, sir, that the proposals you sent me have reference chiefly to the exchange of prisoners; but your son and Mr. Vetché having made me some overtures looking to peace, I have thought it needless to reply on the subject of the exchange.

However, sir, since, as you write me, you have arranged for the sending of fifty-seven prisoners to Port Royal, of which I have no intelligence except from you, although no exchange has been ordered or signed by either party, I send to Port Royal, by the *Marie*, commanded by Thomas Moure, forty-three of your prisoners (of whom I give you a list), with an order to the *Sieur de Brouillon* to forward them to you at Boston.

I have also ordered the *Sieur de Brouillon* to send you the ship *Marie* with Mr. Sheldon, and to detain your prisoners that I send him, and to return them to you only when you shall have restored all the French captives without distinction.

I should have despatched your envoy with the prisoners much sooner if his errand to Montreal to try to recover his daughter from the Indians, had not prevented.

I would have sent you a canoe † if I had not thought it useless, hoping that the vessel I send from here would arrive as soon.

The *Sieurs Marchand* and *Kartier*, whom you sent to me, have volunteered for this voyage.

I will say, sir, with regard to the treaty of exchange, that I shall not alter it; and if you wish to accept it as it is, you will keep one copy of it, which is signed by me, and return the other to me signed by you. The two copies have been given to the *Sieur Marchand*, who will have the honor to present them to you. In it I ask for all our prisoners, and I shall not return yours until mine shall arrive at Port Royal. I ask also your promise to return those who are at sea. You will also find in it an article, which you can accept if you wish, relating to the Indian prisoners that you may hereafter have, since you tell me you have none at present,—which is a very great misfortune for those of your people who are now in the hands of the Indians.

I was greatly surprised, sir, not to hear of the return to l'Acadie of the *Sieur Baptiste*, relying on your promise to send him back to Port Royal. On the contrary, I learn that he is still in prison; I learn also that you treat *Fenoe* ‡ with equal, it may be said, with greater, severity, since his children have not yet been permitted to see him. This does not wholly agree with your statement that you treat our prisoners with all possible kindness and humanity. As for me, I have always treated yours well. Of this, your son, Mr. Vetché, and Mr. Sheldon are witnesses.

If you continue, sir, to hold in prison the *Sieurs Baptiste* and *la Fenoe*, and not to treat my prisoners without discrimination, I shall be obliged to change my treatment of yours; and I can assure you that they shall answer to me for the manner in which you treat mine.

* Vandreuil wrote a letter to Pontchartrain of the same purport on the twenty-eighth, part of which appears in the foot-note on page 577, *ante*. See Documents Relating to the Colonial History of the State of New York, vol. IX., p. 776.

† Evidently in compliance with Dudley's request in the postscript to his letter of July 4, 1705.—See p. 513, *ante*.

‡ According to Miss C. Alice Baker, to whom the editor is indebted for information upon this, and other obscure points, this name, "*Fenoe*," should be *Le Fèvre*, wherever it occurs.

If I were not persuaded, sir, that upon the arrival of the vessel, you would release the Sieurs Baptiste and la Fenoe I would have two of your men imprisoned. I shall await the return of the vessel before doing that; and I pray you not to compel me, by your treatment of my prisoners, to use yours with equal severity.

I confess, sir, that the manner in which you act towards the Sieurs Baptiste and le Fenoe seems to me all the more harsh because it ill agrees with the mild treatment of your people in captivity here, and with the pains I have taken to redeem them from the Indians, and with the humanity of the people of this country in furnishing money to purchase their release from slavery.

I am surprised, sir, that in your letter you should speak to me again about prisoners who are in the Indians' hands. I wrote to you upon this subject, and told you that I would return only those prisoners who are held by the French; and that in regard to the others, I would do my utmost to redeem them, as we have always done.

Concerning what you write me — of your being obliged to communicate to the other governors the propositions of peace made to you by me upon those made to me here in your name by your son and Mr. Vetehe — I shall await further advice from you on this subject.

We have redeemed from the Indians the three men of whom you speak in your last letter: I send them back with the others.

I send to you, sir, two of your prisoners, James Adam and Fletcher, who have been accused here of making marked cards,* and convicted by their own confession. An action against them was begun here, solely to find out how many they had made, and if they had not some French accomplices with them. The trial ended there and would not have been begun if it had not been absolutely necessary to know these things. I have acted in this affair, sir, in the same spirit and with the same kindness that you showed in dealing with two of my people who merited punishment in like manner with these.

With regard to the Frenchmen who, you say, have escaped from Boston, I say nothing, since four Englishmen have escaped from us, of whom I require no account.

The man named Louis Allain informs me, sir, that he went to Boston with a Dutchman, who had labored hard to take the place of the Sieur de Chanfours and to have him returned in his stead, or else go back himself a prisoner to l'Acadie. This Dutchman has not kept his word, since the Sieur de Chanfours is still in Boston, and he himself remains there.

I do not doubt, sir, that in the matter of this complaint, you will, immediately on receipt of my letter, either return the Sieur de Chanfours to Port Royal, or you will send back the Dutchman, who surely is lacking in good faith, his excuse as made to the Sieur Allain, being in no way reasonable; since he says that in Europe no Dutchman can be imprisoned. That is true, and if I had any here I should send them back at once; but it applies to the Dutch who are subjects of the States-General, and not to those who are subjects of England.

I took pleasure, sir, in honoring the letter of credit upon me which you gave to Mr. Sheldon. He has made a very prudent use of it and has asked for only seven hundred and fifty livres, French money, for which he has given me a bill of exchange on you which I entrust to the Sieur Louis Marchand, whom I send to you as bearer of my despatches. I pray you to deliver this sum to him so that he may bring it to me here.

As the Marie, which I send you, will return directly from Boston hither, I pray you to send me the prisoners from Canada whom you have, and who are of this region; namely, the Sieur Gourdeau and family, 'Dion,' 'Pierroitiere,' and le Fenoe with his children.

I pray you to allow the ship to go as soon as it is ready and your permission shall be asked — the return to this country being extremely difficult.

I pray you to treat the captain and crew of this vessel with the kindness and humanity which it is customary among all nations to extend to vessels bearing a flag of truce; and as I have no doubt, sir, that you will do me the honor to write to me, you can entrust your despatches to the Sieur Marchand, who will deliver them to me on his arrival here.

I am, sir,

Your very humble servant,

DE VAUDREUIL." — P. 452.

Five days after the above letter had been laid before the Council, the Assembly convened in its second session, and were thus addressed by the Governor upon the subject of the treaty, and of preparations for hostilities, which, he evidently believed, would be continued with renewed vigor in case of the failure of negotiations for peace: —

" . . . I shall only further ask your advice upon the Treaty for the Exchange of prisoners with the Governour of Quebeck which admits of no delay & also recommend to your Consideration the revival of some Act for the reward of such as shall kill or take prisoners any of the Indian rebels which I hope may revive the Courage & diligence of the forces to take all advantages in the service. & I shall Expect no further attendance in this troublesome time." — *Mass. Archives*, vol. 108, p. 45.

On the next day the vote of advice which constitutes this chapter was passed.

On the ninth, the House, evidently anxious to prevent all communication to the enemy of the proceedings pending in the Legislature against the persons under arrest for illicit trading with the French and Indians of Acadia, passed the following resolve, which, though not formally concurred in by the Council, was probably deferred to, both by them and by the Governor: —

" Resolved, That all y^e French Captives be Emediatly Gatherd together at Cambridge where they May be in Readiness to be sent to y^e places Intended; y^e y^e province May Not

* "De faire ici de fausses cartes." According to Littré, "faussee carte" is, "carte marquée avec laquelle on pipe au jeu, et aussi, carte entrée seule dans un jeu et qui est désavantageuse."

be put to unnecessary Charge when y^e vessel is Ready: nor the sd Captives have such opportunities as they have hitherto had to acquaint themselves with y^e affaires depending to be agitated at this Court: y^t y^r: be a guard to Inspect them till put on board: & y^e Master of y^e flag of truce be not suff^d to goe up & downe to Converse wth any: but be vnder one to Inspect him dureing his stay: & some P^{ersons} kept aboard his vessel y^t he doe not Convey any Goods or Lettrs to kebeck but what is allowed him w^{ch} is the practice of their Nation wth our flag of Truce." — *Ibid.*, vol. 71, p. 241.

See, further, chapters 56, 57, 62, 63, 67, 88, 107 and 125, *post*, and notes.

Chap. 56. This chapter is from council records, vol. VIII., p. 229. It has not been found in the archives.

For the report of the committee, see chapter 57, *post*.

Before this committee was appointed, the brigantine Adventure had been thought of by the Council, and an order passed fixing a monthly rate of compensation for her use, as appears by the following entry:—

"Aug. 10, 1706. Mr Commissary General proposeing, that the Brigant^e Adventure John Huddy Master, be taken up and Employed in the present service with a flagg of truce to Canada, for bringing home the English prisoners from thence, she having been employed in the like service to Port Royal the last Winter; the Owners complaining that the hire did not answer her Outset and Charges.

Ordered. That in consideration thereof for her service in this present voyage, Mr Commissary be directed to agree to pay the sum of twenty eight pounds p^r Month Kallender Months, for the time she shall be upon the same." — *Executive Records of the Council*, vol. 4, p. 305.

Chap. 57. This chapter is from archives, vol. 62, p. 540. It is recorded in council records, vol. VIII., p. 229.

The previous year, the Hope had been purchased of her captors, at Port Royal, for her former owners, by Captain William Rous, as shown in the note to private act, number nineteen. The conditions of the purchase had not been complied with by the owners; and hence, on the fifteenth, the Council passed the following order, which, however, was not concurred in by the House:—

"aug^t 15th 1706./. In Council.

It appearing to this Court That the Briganteen Hope belonging to Lt Col^o Alford and Mr Vryleing was lately by allowance brought from Port-Royal in favour of the s^d Alford and Vryling at the purchase of Four Hundred pounds, for which Capt^e Rouse on their behalfe gave bond to m^r Bonaventure Gov^r of Port-Royal. Notwithstanding which m^r Vryleing has neglected to pay the halfe of the said Four Hundred pounds to m^r Chafour Procureur of m^r Bonaventure who is now goeing home and the Briganteen taken up for the Service of the Province.

The Court considering their own Honour as engaged that none of Her Mat^ys Subjects here commit a fraud or Deceit in such a Negotiation that is alwaies upon Honour with an Enemy. Do Order That m^r Commissary General take the s^d halfe of the Briganteen into his own hands as his Property and pay the money for the ransom.

Saving Nevertheless a Power to themselves to restore her to Vryling upon his Application and payment of the Price damages and charges at any time within thirty day's next coming.

Sent down for concurrence.

In the House of Representatives Aug: 15: 1706.

Read. & Not-Concurr'd

Is^t ADDINGTON Seery

Aug: 15: 1706.

THOMAS OAKES Sp^r." — *Mass.*

Archives, vol. 62, p. 542.

The choice of a commissioner was brought up, pending the passage of the vote which constitutes this chapter; but the two branches failing to agree in the choice the vote passed as it appears here. See the foot-note on page 186, *ante*, and chapter 62, *post*, and note.

Chap. 58. This chapter is from archives, vol. 63, p. 36. It is recorded in council records, vol. VIII., p. 230.

For the particulars of the offence of the prisoners mentioned in this chapter, and of the proceedings against them, see the notes to private acts, numbers nineteen to twenty-five, inclusive.

Sewall, who objected to the proceedings on the ground of the illegality of the method of trial proposed, gives us the following glimpses of details throwing light upon the progress of the case against Vetch, and upon the views of some of the judges of the highest judicial court of the province as to the jurisdiction of the novel tribunal:—

"Friday Augt. 16. [1706.] Capt. Vetch was brought to his Trial in the Afternoon, in the Court Chamber. Note. I came home on Wednesday morn, and went not again till the Gov^r and Council sent for me by Mr. Winchcomb Friday morn. ... Depts* would have had Mr. John Eliot, and Cousin Duimer M. A. to have assisted Mr. Attorney: Gov^r did not consent: they insisted so long that the Forenoon was spent, and I fairly got home. Augt. 17. I am told Mr. Borland and Lawson are brought to their Trial. Mr. Borland pleads that he was a Factor in the management of this Affair.

Note. Gov^r would have had the Judges manage the Conference, I declin'd it because was against the procedure. And so declin'd joining with the Judges to prepare for it because I was against it. Col. Hathorne was at Salem with his sick Son; so that only Majr Walley, and Mr. Leverett were active in the matter. And Mr. Leverett said at the Board that he did not interpret that Clause in the Charter of imposing Fines &c. as if it did im- pour the Gen^l Court to Try delinquents." — *Diary*, vol. II., pp. 164, 165.

* Deputies. The previous omitted words are on p. 621, *post*.

Chap. 59. This chapter is from council records, vol. VIII., p. 230, and archives, vol. 71, p. 201.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esq^r Capt General and Governour in Chief in and over her Majesties Province of the Massachusetts Bay in New England And To the Hon^{ble} the Council and House of Representatives now in General Court assembled in and for sd. Province May 29th 1706./—

The humble Petition of David Jeffries of Boston Merch^t

Sheweth

That on the thirteenth day of July 1697, y^r Petition^r had five Great Guns (wth as ¶ margin) Imprest from him into his late Maj^{ties} service at the Castle, where they have been detained ever since, which was and is very prejudicial to y^r petitioner in regard that Guns were then in great demand, and might have been Sold to good advantage:

Y^r Petitioner therefore humbly prays That the said five Guns may be Return'd to him again together with such allowance for their Use as to this Great and General Court shall seem reasonable; or that he may be paid for them—

And y^r Petitioner shall pray &c :

DAVID JEFFRIES." — *Mass.*

Archives, vol. 71, p. 201.

This petition was presented in the first session this year. It was read, in the House, on the first of July and referred to a committee, but no further action thereon appears to have been taken during that session. It came up again in the second session. On the thirteenth of August it was again committed, and on the fourteenth, the committee, apparently reported the resolve which constitutes this chapter, which was passed by both branches and consented to by the Governor, on the same day.

The order in Council* for the payment of this allowance was passed September 13, 1706, and the province treasurer's account † shows that it was paid.

1890
2035
2051.
2030.
1890.

Chap. 60. This chapter is from council records, vol. VIII., p. 231, and archives, vol. 31, p. 13.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esq^r Capt Generall and the Honorable the Councill of the Massachusetts Bay

The humble Petition of Simon Sinkawah Indian, belonging to Natick

Sheweth

That y^r Excy & Hon^{rs} Petitioner, was much frozen in the service of her Majesty last January, and hath been ever since upon the Countrey charge.

Now if y^r Excy & Hon^{rs} please to supply me wth a small Summ of money at y^r discretion I will immediately go home among my friends

And y^r Petitioner shall Ever pray for y^r Happiness.

Boston. 9 August, 1706

SIMON SINKAWAH." — *Mass.*

Archives, vol. 31, p. 13.

With this petition was filed the following certificate:—

"This may Certify, that, Simon Sinkawah Indian belonging to Natick, in Her Majesties Service was frozen some time in January Last, & Lost one of his feet & halfe of the other foot in his Scouting in the Service by reason of the Extremity of the Weather, w^{ch} feet were taken of.

¶ me GEORGE JACKSON." — *Ibid.*,

p. 14.

This petition was read in Council and sent to the House on the day on which it was presented to the Board. On the thirteenth it was read again in the House, and the resolve which constitutes this chapter passed thereon and sent to the Council, for concurrence.

An order was passed in Council ‡ September 13, 1706, for paying the amount of this allowance in the words of the resolve, not designating any particular payee.

On the seventeenth of April, 1707, another order § was passed for the same payment to Sergeant John Fisher, "to be by him Employed and deliver'd out for the benefit of the said Simon Sinkawah & family (if any he have)," according to the resolve.

The province treasurer's account || shows that it was paid.

Chap. 61. This chapter is from archives, vol. 71, p. 243. It is recorded in council records, vol. VIII., p. 231.

The order which constitutes this chapter was passed in response to the following petition:—

"John English, in behalfe of his sister Joseph English's Widdow, prays the General Assembly now sitting, that they would allow his sister afores^d what they think fitt. Considering the good service he has done for the Country. He being Lately Killed in the Countrys service —

Boston Aug^t 14th 1706

JOHN J. ENGLISH." — *Mass.*

Archives, vol. 71, p. 242.

The order on this petition was passed in the House on the day of its date and sent to the Council, for concurrence. On the next day it was read and concurred in, and consented to by the Governor.

* Executive Records of the Council, vol. 4, p. 316.

† *Mass. Archives*, vol. 122, p. 282.

‡ Executive Records of the Council, vol. 4, p. 317.

§ *Ibid.*, p. 380.

|| *Mass. Archives*, vol. 122, p. 284.

The following item appears in the province treasurer's account:—

"Paid y^e Executors of y^e last will of Thaddeus Maccarty Supplied. Jo: English & his Family wth clothing as a recompence for his good service in giving intelligence of y^e enemies motions Allowed by the General Assembly 6.. — —"

—*Ibid.*, vol. 123, p. 27.

"Jo English, as he was called, was much distinguished for his attachment to the white inhabitants. In a preceding war with the Indians, he had been taken a prisoner from the vicinity of Dunstable and carried to Canada, from whence, by his shrewdness and sagacity, he effected his escape, with one English captive, and returned to his friends in Dunstable. The Indians had for a long time endeavored to retake him, and he was peculiarly obnoxious to them; and at the time abovementioned,* while he was accompanying Capt. Butterfield and his wife on a visit to their friends, they pursued him, and just as he was upon the point of gaining a thicket, they shot him through the thigh, which brought him to the ground, and they afterwards dispatched him with their tomahawks."—*New Hampshire Hist. Coll.*, vol. 1, p. 49, note.

Chap. 62. This chapter is from archives, vol. 71, p. 245. It is recorded in council records, vol. VIII., p. 231.

By this time Vetch, who probably would have been the Governor's first choice, was in disgrace.† The reappointment, as envoy, of the plain farmer, Sheldon, would not be so likely to ensure to the Governor's advantage as the selection of a person of eminence, or one whose preferment would be likely to gratify some member of the Council, or conciliate some leader of the opposition in the popular branch. The Governor, therefore, first nominated the brother of Sewall, the distinguished councillor and acting chief justice of the Superior Court. The record of this proceeding is as follows:—

"Aug. 10, 1706. His Excellency acquainted the Council, that he had spoken wth Major Stephen Sewall, and that he was willing to serve the publick in the Intended voyage to Canada, and the Council manifested their satisfaction and good acceptance of his service."

—*Executive Records of the Council*, vol. 4, p. 305.

Probably in a matter of such importance Major Sewall, according to his custom, sought his brother's counsel, and, if so, the latter, who was suspicious of Dudley's designs, and who, though his integrity was proof against all blandishments, always endeavored to avoid the appearance of evil, undoubtedly advised him not to accept the appointment.

Sewall's declination was followed by the vote of the House recommending John Leverett, a councillor and eminent citizen, and well known to be the political friend of the Governor, whom Dudley's enemies would prefer to have out of the way during the approaching trials; but, failing to secure Leverett,‡ both branches concurred in choosing Samuel Appleton.

Appleton was a councillor, and a resident of Ipswich. He was a friend of the Sewalls and courted by the Governor. He was prominent in public affairs, and, later, as an officer in the militia, won distinction in actual military service at Port Royal. The choice appears to have been acceptable to all parties. See, further, chapters 67, 107 and 125, *post*, and notes.

Chap. 63. This chapter is from archives, vol. 71, p. 246. It is recorded in council records, vol. VIII., p. 232.

The House appears not to have added a member to the two committeemen named by the Council in this chapter, who, therefore, made the following report, which was accepted on the same day:—

"In Observance of the within Order we the the § Subscribers haue Agreed with Cap^t John Bonner to goe Master of the Brigantene Hope for Quebeck And this place for the Exch^e of Prisoners he to haue fine pounds £ 5 m^o During the Uoyadge, And Twelue pounds more as a gratiety for his incoradgment to be paid at his retorne

Dated in Boston the 15 Aug^t 1706

BENJ^a BROWNE
AND^r BELCHER."—*Mass.*

Archives, vol. 71, p. 247.

On the second of January, 1706-7, the following order was passed in Council for a warrant to the province treasurer:—

"A Muster Roll of the Brigantene Hope, John Bonner Commander in a voyage to Canada wth a Flagg of Truce, containing an account of Wages for the service of the sd Commander and Company with the Interpreter and Vessel hire, from the 11th day of August to the 26th of November 1706, amounting in the whole to the sum of two hundred thirty nine pounds eighteen shillings and nine pence, whereof thirty four pounds sixteen shillings and nine pence being subdncted for Commissary, rests dne two hundred and five pounds, two shill^z haueing been examin'd by Mr Commissary General, was presented—And.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to

* Nason, in his History of Dunstable (page 36), gives the date as the twenty-seventh of July, and, after describing the fall of English before his pursuers, he adds, "Knowing the exquisite torture to which they would subject him, he at once provoked them by some taunting words to anger, when they immediately despatched him with their tomahawks. His widow and two children received a grant of money from the government because 'he died in the service of his country.' He was daring, intelligent, of manly bearing, and always faithful to the English people. His grandfather was Mascoumet, Sagamore of Agawam, now Ipswich." See foot-note on p. 702, *post*.

† He stood committed in close custody for trial upon articles preferred by the House of Representatives accusing him of high misdemeanor. See private act, number twenty.

‡ See foot-note on p. 186, *ante*.

§ *Sic*.

pay the above sum of Two hundred and five pounds two shillings to the said Master and Company, their respective parts thereof for Wages accordingly, and for the hire of the vessel to Andrew Belcher Esq^r.

And that the Masters wages be not paid until Mr Commissary General Certify, that he has adjusted his accounts with him for sundry Provisions & stores."—*Executive Records of the Council*, vol. 4, p. 364.

The amount * actually paid on this warrant was £202 7s. 5d. The difference of £2 11s. 7d. was probably retained to balance the account of the master's wages as certified by the Commissary-General.

See chapter 125, *post*, and note.

Captain John Boumer, who was an expert navigator, is remembered for the accurate map of Boston which he published in 1722. According to the News-Letter, he died January 30, 1725-26.

See chapters 56 and 57, *ante*, and notes.

Chap. 64. This chapter is from archives, vol. 48, p. 381. It is recorded in council records, vol. VIII., p. 232.

Chap. 65. This chapter is from archives, vol. 51, p. 149. It is recorded in council records, vol. VIII., p. 234.

The order which constitutes this chapter was based upon the following letter to Andrew Belcher, commissary-general, and the appended certificate by Captain Willard:—

Honrd Sr/

"Kittery July the 31: 1706

In Octobr 1703, I receed from m^r Theodore Atkinson, D^y the Lth Govern^rs order Eleven barrells of pork, It being that which Capt Simon Willard brought from Black point

The bearer hereof has Capt Willards receipt for @ one halth of it.

I formly gave you accot that said pork Thro: Capt Willards or m^r Atkinsons Negligence or for want of salt, was much dammifed so that I could never dispose of more than one halfe of it. The bearer Is a poor widdow & bin in Captivity ever since & needs her Just due, you will please to Direct her where she may have it I am Sr

Yor humble serv^t

PELÂ: WHITTEMORE."—*Mass.*

Archives, vol. 51, p. 149.

"Black point octobr 4th 1703

This Signifies that we have taken on board the sloop Crownation M^r Benja Gold master: a thousand & twenty nine pound of pork: which m^r Jerimiah Jordan owned and weighed to us by y^e govern^rs ord^r: to deliver to y^e store at great Hland

SIMON WILLARD Capt."—*Ibid*.

The above papers were read in the House on the eighth of August. On the fourteenth they were read again, "and committed," and on the next day the order which constitutes this chapter was passed and sent to the Council, for concurrence, where, on the twentieth, it was "read and agreed to," and consented to by the Governor.

The order in Council for the payment of the allowance granted by this chapter was passed August 21, 1706, and the province treasurer's account ‡ shows that it was paid.

Chap. 66. This chapter is from council records, vol. VIII., p. 234, and archives, vol. 40, p. 870.

The suit brought by Andrews against English was an action of trover under the designation of "trespass upon the case," in which the plaintiff claimed that in June, 1705, he was in possession of certain goods and merchandise; namely,—molasses, sugar, rum and lime juice; also vessel's furniture, such as shrouds, main-stay, jib-stay and two pennants, belonging to a sloop of sixty tons; also a thirty-two-gallon kilderkin of "Angelico water;" together with a chest containing sundry specified articles of clothing, and pieces of eight (Barbadoes money) of seventeen and one-half pennyweight each, consigned to him, and in his possession, to the value of seventy-eight pounds; all of which the defendant fraudulently converted to his own use, and had refused to deliver to the plaintiff upon demand made. The writ was dated March 8, 1705-6, and was served on the twelfth.

On the return day the parties appeared and the defendant pleaded the general issue, and, after trial, verdict was rendered for the plaintiff and judgment thereon recorded, as follows:—

"Essex ss. At Her Majestys Inferiour Court of pleas holden at Ipswich March 26. Anno Dom. 1706.

Nicholas Andrews of Marblehead Mariner Plant u Philip English of Salem Merchant Def^t. In an action of Tresspass upon the Case &c according to Writ. The Cause being heard & Committed to the Jury who Returned their verdict to wit. The Jury find for the Plan^t the goods Money & Merchandize sued for according to writ & Costs of Court. Its Considered by the Court that the Plan^t Recover the goods Money & Merchandize sued for according to Writ and Costs of Court."—*Mass. Archives*, vol. 40, p. 895.

The defendant appealed, as stated in the petition, and filed his reasons on the twentieth of April, as follows:—

"Essex ss To y^e Hon^{ble} The Justices of Her Maj^{ties} Superiour Court of Judicature to be holden at Ipswich for y^e Countey aforesaid on y^e Third Tuesday of May 1706

* *Mass. Archives*, vol. 122, p. 271.

† *Executive Records of the Council*, vol. 4, p. 303.

‡ *Mass. Archives*, vol. 122, p. 280.

Philip English Appell^t } The Appellants Reasons of Appeal from a Judgment of Her
 Nicholas Andrews Deft } Maj^{ties} Inferiour Court of Common pleas held at Ipswich the
 last Tuesday of March last past viz 1706.

The action was a plea of Trespass on y^e Case brought by y^e sd Andrews against y^e sd English for refusing to deliuer to y^e Said Andrews a parcell of goods &c^a & converting them to his y^e Said Englishes vse when y^e Said Andrews had been Possessed of them by Consignment & otherwise as per y^e writ more at large appear: the now Appell^t after he had pleaded In abatement that an action of Troner could not Lye for goods Consigned pleaded not Guilty but verdict & Judgm^t going against him he Appealed to this Hon^{ble} Court for y^e following reasons.

1. Because the action being Trover the verdict ought to hane been onley for damages & not for y^e goods mentioned in y^e writ for it May be Impossible for y^e Appell^t to produce them & then he must Lye at y^e Mercey of y^e appellee which is contrary to Law.

2 For that Indeede a factor Can never bring an action of Trover for goods that are Consigned to him for that in Trover there are but two things to be tried. 1. the property of the plaintife and 2. the Conversion of the Defendant. Now in this Case upon the plaintiffes owne Showing the property of the goods was not in him but in another. So that if the plaintif were really Dispossessed of them he ought to have brought his action of Tresspass or Detainure in Case they had been Delivered to the appellant by the Appellee

3 a great part of the goods Never Came to the Appellants hands as the Rumme Lime Juice Money and Some others and it is very unreasonable to Make the Appellant Answerable for all because Some of them are in his hands this will appeare from the Masters Manifest which Mentions Nothing of Rumme or Lyne Juice or Angellico and yet these the appellant is Sued for now the Master by law is obliged upon oath to give a true account of what he has Imported

4 The Oath of the Appellee Ought not to be Received in this Case for. 1. it is Contrary to the oath of the Master and. 2^d it is Notoriously false in It Selfe for that he Swears his book was left in the Appellants hand and Detained by him when the Contrary is knowne and will be proved by nudoubted Eye Witnesses

5: what goods the Appellant truly has in his Costody were delivered to him by Elias Fortune and his Order with positiue Direction that they Should not be parted with till the freight and Necessary Charges thereof are paid Now the Appellant is accounttable onely to the Said Fortune for these goods and his * liable at any time hereafter to be Called to an account by him but not by the Appellee with whome the Appellant never had any thing to doe as to these goods Nevertheless the appellant is willing and ready to Deliver them to any proper person that will pay the freight and Charges and Indemnifie him from the Said Fortune and till then he thinks himselfe neither Safe nor Obligated to part with them but however that be the appellant Conceines that he is not Guilty as the Plaintife Charged him and Doubts not but this Honourable Court will See abundant Cause to Reverse the former Judgment and award the Appellant his Costs

P. DUDLEY *pro Appellante.* — *Ibid.*,

p. 896.

On the eleventh of May the parties filed with the clerk of the Inferiour Court the following certificate of their agreement to refer their controversy to arbitration: —

“Essex ss To Stephen Sewall Clerke of the Inferiour Court for the Countey of Essex

These are to Certifie you that whereas there was an Action depending betwixt Nicholas Andrews Plaintiffe and Phillip English Defendant at the last Inferiour Court holden at Ipswich on the last Tuesday of March last and an Appeale thereon depending to be heard at the next Superiour Court to be holden at Ipswich on the third tuesday of this Instant May and bond given by Said English the Appellant for prosecution of the Same

Wherefore wee Phillip English and John Calley attorney to Nicholas Andrews haveing agreed to Referr the Said Cause to Arbitration doe acquitt Each Other as to Said bond or any thing referring thereunto and noe Advantage to be taken on Either Side as Witnesses our hands 11th day of May 1706: the Judgment and Every thing relating thereto being Included in this Agreement

Witness

MARGARET SEWALL Jun^r

PHILLIP ENGLISH

JOHN CALLEY.” — *Ibid.*,

p. 901.

English having failed to enter his appeal in the appellate court, supposing that the award of the referees would effectually end the case, and the time having passed for the appellee to move to enter it by complaint to the court, Andrews sought equitable relief from the Legislature, which was granted by this chapter.

The cause of the failure of the arbitrators to agree upon an award appears in the petition. It is more particularly shown in the depositions of the two arbitrators, Belcher and Lillie, which are printed in the note to the resolves of 1707, chapter 9.

The following is the petition mentioned in the preamble to this chapter: —

“To his Excellency Joseph Dudley Esq^r Captⁿ Generall & Govern^r in Chief in and over her Maj^{ties} Province of the Massachusetts Bay in New England, in Councill and to the Hon^{ble} hous of Representatives in General Court Conven^d

The Petition of Cap^t John Calley of Marblehead Attorney to Nicolas Andrews.

humbly Shewth

That Whereas Nicholas Andrews of Marblehead commēced an accōn of trespass vpon the case against phillip English at Ipswich in the Countey of Essex the first Tuesday of March last; for divers goods and merchandizes and recover^d judgm^t for s^d merchandizes &c^a as p^y y^e Judgm^t appears —

That the said Phillip English appealed from the Inferiour Courts Judgm^t to the Sn^{ior} Court of Judicature to be holden at Ipswich afors^d the 2^d Tuesday in May, and pending the appeal the parties submitted the Controversy to the Arbitram^t & award, of Cap^t

Andrew Belcher Esq^r & Mr Sam^l Lillie, & gave them time til the tenth of last June. to make and deliver the same, —

That the P^{ty}es concern'd mett the arbitrators in ord^r to determine the difference ab^t the 9th of last June when the parties were heard & the Arbitrators desiring further time til the last of June, the parties by Consent enlarged the time in their Bonds of arbitration but thro' the defect or designe of the s^d Phillip English, who never afterwards would meet, or his arbitrator Mr Lillie for him the whole matt^r dropt to the ground, & the s^d Phillip English knowing the S^d P^{ty}our Court to be over, & that the s^d Nicholas Andrews, could not have the benefit of the Inferiour Courts Judgm^t nor any Complaint to affirm^e ye Judgm^t in the S^d P^{ty}our Court, for want of the appelt's prosecuting y^e s^d appeal, takes advantage thereof vterly refusing to satisfy y^e s^d Judgm^t supposing the s^d Andrews to be now without remedy

Yo^r Petr as Attorney, & in behalfe of the s^d Andrews prays that he may haue the benefit of the s^d Judgm^t & y^t Execuc^{on} may be forthwith awarded thereon, or y^t yo^r Petr may be otherwise releiv'd in the p^{mi}sses as to this hon^{ble} Court shall seem meet & just.

And yo^r Petr

JOHN CALLEY attorney to

nicklos Androns." — *Ibid.*,

p. 869.

On the fourteenth of August, 1706, this petition was read, in the House, and referred to a committee, upon whose report, apparently, the following order was passed on the fifteenth by the House and sent to the Council, for concurrence: —

"Ordered That Mr Philip English be notified with a Copy of the Same, to give reason if any he have, before this Court, next Saturday, the 17th instant why s^d Cawley shall not have the benefit of the Judgment, of Court, Granted against him the said English at Ipswich, the 26th March 1706. by Taking out Execution thereon to the satisfaction thereof, (said English not having Prosecuted his Appeal from s^d Judgment, of s^d Court to the Superiour Court, in the month of May last which he appealed unto.)

THOMAS OAKES Spear." — *Ibid.*, p. 870.

On the twentieth, the Council refused to concur, and as a substitute passed the order which constitutes this chapter and sent it to the House, for concurrence, where it was read twice and concurred in, and on the same day consented to by the Governor.

For subsequent proceedings in this case, see the note to chapter 9 of the resolves of 1707, above mentioned.

Chap. 67. This chapter is from archives, vol. 71, p. 244. It is recorded in council records, vol. VIII., p. 235.

For the particulars of this voyage and for the payment of the commissioner, see chapters 56, 57 and 62, *ante*, and chapters 107 and 125, *post*.

As soon as Appleton was chosen commissioner preparations for his departure were begun. His commission and instructions have not been discovered, but it appears that the Hope was to sail under a flag of truce, and, from entries in the council records,* that she was to touch at Port Royal on the way to Quebec; for, on the nineteenth, Dudley communicated to the Council and representatives the draught of his letters to Vaudreuil, and to Bonaventure at Port Royal, "by ye Flag of Truce now going thither."

The following entry indicates that Marchand, who came as Vaudreuil's messenger in the Marie, was to return about the same time: —

"Aug. 20, 1706. A Memorial presented by Monst Marchand Messenger from Monsr Vaudreuil Gouverneur of Canada of several Things he desired to purchase, & carry with him for the Use of his said Master, Was Read & approved, One Article excepted." — *Council Records*, vol. VII., p. 234.

On the twenty-third the following order was passed in Council for victualling those of the prisoners who were bound to Port Royal, and for granting extra pay to the mate of the Hope: —

"Aug. 23, 1706. Ordered. That Mr Commissary General do supply fourteen day's provision for victualling of the French Prisoners to be returned to Port Royal, to be transported upon the Stone boat† lately brought from thence, which boat under the present care of Mr Commissary he is ordered to deliver to Mr Chafour for that service, and that John Price Mate of the Biganteen bound to Canada be allowed six p^{ts} over and above his stated Wages.

J: DUDLEY." — *Erec-*

utive Records of the Council, vol. 4, p. 310.

Sewall, mindful of the comfort of the captive minister of Deerfield, and desiring that, upon his return, he should appear in clothing befitting his station, makes the following minnte in his diary under date of Friday, August 16, 1706: —

"I went [to the council chamber] though I had a cold; spake that a suit of Cloaths might be made here for Mr. Williams." — *Vol. II.*, p. 165.

The Hope sailed for Quebec from Nantasket on the thirtieth of August. On the same day sailed from the same place the Marie, also bound to Quebec, and a sloop bound to Port Royal. These vessels carried seventy French prisoners, and, by order of the Governor, were convoyed for ten leagues east from Cape Ann by the Province Galley, under command of Captain Cyprian Southack. These incidents were published in the News-Letter‡ of the second of September.

* Vol. VIII., p. 233.

† This, undoubtedly, was the third vessel, "the sloop," that, according to the News-Letter, sailed with the Hope and Marie from Nantasket. See pp. 595, *ante*, and 678, *post*.

‡ In a marginal note on Sewall's copy of the News-Letter which announced the return of the Hope, he wrote "N. Mr. Appleton sailed Augst 30. 1706. from Nantasket." — No. 136.

Anticipating some delay in assembling the English prisoners in Canada preparatory to their return with Captain Appleton, it appears by the same newspaper that about the twentieth of August Dudley had sent two men overland to Montreal with letters to Vandreuil asking that the prisoners might be seasonably got together.

Under this resolve the following order was issued for a warrant upon the province treasurer:—

“Dec. 18, 1706. Pursuant to a resolve pass’d by the General Assembly at their Session begun the seventh day of August last, that the sum of fifty pounds be allowed out of the Province Treasury to Samuel Appleton Esq^r as a Compensation for his service in a voyage to Canada to negotiate the affair of Exchange of Prisoners,

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of Fifty pounds, to the said Samuel Appleton Esq^r accordingly.” — *Executive Records of the Council*, vol. 4, p. 352.

The amount of this warrant was paid* at the same time with the amount voted to Appleton in settlement of his account by chapter 125, *post*. The Hope having returned November 21, 1705,† he received only fifty pounds, the smaller compensation fixed by the resolve.

On the twentieth the resolve which constitutes this chapter was “voted” in the House and sent to the Council, for concurrence. On the next day the Council voted to concur, and it was consented to by the Governor.

Samuel Hill, who had returned to Quebec with Vetch and Courtemanche, as shown in the note to resolves, 1705-6, chapter 51, assisted in getting the prisoners together, and went at his own expense from Quebec to Montreal for that purpose. See his petition printed in the note to chapter 124, *post*.

Chap. 68. This chapter is from archives, vol. 63, p. 44. It is recorded in council records, vol. VIII., p. 235.

The General Court had been prorogued to the seventh of August particularly for the purpose of making all necessary preparations for trying the persons accused of illicit trading with the French and Indian enemy. The accused having been tried, this chapter was the judgment of the Court thereupon. Bills for the punishment of each were accordingly prepared, and are given in full in the private acts, numbers twenty to twenty-five inclusive.

For previous and subsequent proceedings in these cases see the notes to private act number nineteen and to the other private acts above enumerated.

Chap. 69. This chapter is from council records, vol. VIII., p. 235, and archives, vol. 58, p. 250.

The account mentioned in the preamble to this chapter is as follows:—

Province of the Massachusetts Bay		Dr	
Dec ^r 17 th	To 130 Laws att 6 ^d p s	£3:	5: 0
1705/6			
Feb ^r 11 th	To 1 q ^r Demy	0:	4: 0
May 13 th	To 1 D ^o	0:	4: 0
July —	To 130 Laws at 4 ^d p s	2:	3: 4
“	To 11 Rm paper for the Election sermon &c att } 14/ p Rm	7: 17:	0
	To foldg stitching, & Covering in Marble paper, } & Cuting 293 books at 2 ^d p s	2: 8:	10
	To folding & stitching 707 books at 1 ^d ½	3: 13:	7
		13: 19:	5
	By 112 Election Sermons &c att 8 ^d p s	3: 14:	8
		£10: 4: 9	
	To the Printers Bill annex’d given in for Printg } the Election Sermons	6: 6: 0	
		£16: 10: 9	
	Election & m ^r Pemberton’s Sermons dd. 486	£22: 7: 1	
	I give C ^t for 112	Over Cast 3/ in paper 0: 3: 0	
	Remains in my hands 402	22: 4: 1	
	£1000		

Boston Aug^t 10th 1706
— *Mass. Archives*, vol. 58, p. 250.

¶ BENJ^y ELIOT.”

The order in Council‡ for the payment of the allowance granted by this chapter was passed September 13, 1706, and the province treasurer’s account § shows that it was paid.

Chap. 70. This chapter is from council records, vol. VIII., p. 236, and archives, vol. 62, p. 518.

No other draught of an address, as contemplated by chapter 52, *ante*, has been discovered, than the address to the Lords Commissioners for Trade, which is hereunder given.

In the note to resolves, 1705-6, chapter 110, are printed from the News-Letter of October 22, 1705, schedules of lengths of stay of post packets and rates of postage between England and her West-India colonies. The need of similar accommodation for New England

* *Mass. Archives*, vol. 122, p. 283.

† See note to chapter 107, *post*.

‡ *Executive Records of the Council*, vol. 4, p. 316.

§ *Mass. Archives*, vol. 122, p. 280.

seems not only to have been felt by the merchants of Massachusetts but to have been brought to the notice of the home government.

A project favorably entertained by the Lords of Trade for establishing a regular monthly packet boat between the province and England had been transmitted by them to Dudley and by him communicated to the Assembly in their last session in 1705-6, as appears by the following entry :—

"April 11, 1706. His Excellency communicated to the Council a Letter received the last Night from the Right Hon^{ble} the L^{ds} Commiss^{rs} of the Council for Trade & Plantations, Dated the 29th of October past, intimating that Mr Dummer having entered into an Agreement with her Majesty for Carrying on of a constant Correspondence with the Plantations of a monthly Packet Boat, Recommending him & his Agents to the Governor for his Encouragement & Assistance as their may be Occasion, with a Scheme proposed by Mr Dummer to be made publick within this Government.

Which being read was sent down to the Representatives."—*Council Records*, vol. VIII., p. 184.

No record of any action upon this communication by the Governor has been discovered during the legislative year 1705-6. During the first session of the next Assembly the News-Letter contained the following advertisement, correcting an error in the former publication and giving notice of further postal regulations for the convenience of the people of New England :—

"*These are to give Notice, That in our Numb. 79 We gave you an Account, That Her Majesty, for the better maintaining of Correspondence between England and Her Plantation Islands in the West-Indies, and for the further Improvement and Benefit of Trade, had settled Packet-Boats, to go from Plimouth every Month in the year, and being arrived at Barbadoes to stay no longer than 3 days and nights, at Antigua 2 days and nights, Monserrat, Nevis and St. Christophers at each 36 hours, at Jamaica 10 days and nights, and thence to Return to England, and not to be stay'd or delay'd on any pretence whatsoever.*

*And whereas in the said Account by an Error of the Press, it was said every Vessel hath performed her Voyage in the space of 150 days or thereabouts : These are to give Notice, that it should be but 100 days, which according to the first Proposition * laid down by the Honourable Edmund Dummer Esqr. is de facto found practicable to accomplish the same*

In the said Account we also informed you, That by virtue of the Act of Parliament for Establishing the Post-Office, Her Majesty had Directed and Impow'ered the Honourable Sir Robert Cotton Knight, and also the Honourable Sir Thomas Frankland Baronet, Her Majesty's Postmaster General of England and the Plantations, &c. to take and receive for the Port of all Letters and Packets so conveyed to and from the Plantations to England, according to the Rates following. From England to the West-Indies, each Letter not exceeding one Sheet 15d. double not exceeding 2 Sheets 2s. 6d. and in proportion to the same Rates for every Packet of Letters. From the Islands to England single 18d. Double 3s. and in proportion for Packets, and for Packets of greater bulk 6s per Ounce.

We also acquainted you that Letters would be taken in at the General Post-Office in London, directed for New-England, New-York, New-Jersey, Pensilvania, &c. On the same Post nights as those for the Plantation Islands, which would be put up in Separate Bags, for the Continent, with Direction † to the several Agents of Her Majesty's Packets in each Island by the very first Embarkation that presents from either Island, to put said Mail on Board for the Continent, where said Letters are to be dispatched to the Respective Governments by the Post-master of the Place where the said Vessel does first arrive.

These are also to give Notice, That the Agents of the Packets in each Island, and the Post-masters on the Continent, are ordered to Correspond with each other in order to promote and carry on this Publick Good. As also the Post-masters of the several Provinces on the Continent are hereby desired to acquaint each other from time to time of all Vessels Outward bound from their Precincts to any Port of the West Indies or Beyond Sea, as well as those that do arrive from any Foreign Port ; whereby all Persons may know how and when to send Letters by said Vessels for Conveyance by the Monthly Packets to England, or any other Ports.

It is also hereby further Notified to all Persons who at any time have a mind to send any Letters or Packets for England, either directly when Embarkations offer, or by the way of the West-Indies by said Packets, either from this or the Neighbouring Provinces, that all due care shall be taken by the Respective Post masters to put said Letters on board the Vessel for England, and if to the Plantations, to put up the said Letters in a Maile directed for the Agent, where the first Embarkation offers, by him to be put on Board the first Packet for England : The Owners of said Letters or Packets, first having pay'd the Inland Postage and usual allowances of 2d. each Letter for the same."—No. 111. May 27 to June 3, 1706.

The petition mentioned in the preamble to this chapter is as follows :—

"To his Excellency Joseph Dudley Esqr. Capt General and Governor in Chief in and over her Majesties Prov^{ces} of the Massachusetts-Bay &c. and To the Hon^{ble} the Council and House of Representatives now in General Court Assembled at Boston May 29th 1706. —

The Humble Petition of Several Merchants & Traders of Boston &c. in behalf of them selves and others. —

Sheweth

That Whereas a frequent and Steady Correspondence from the Kingdom of England to this Country, especially in this time of War, would be of very great advantage, and service to the Government and Trade of New England, and all manner of public affairs and Designs depending between our Nation and us, the Sooner known, and carryed on with success, as is already seen and known in the West Indies, since the Pacquet Boats have been settled there ; and being Inform'd, That an humble Address of this Great and General Assembly to her Maj^{ty} would be the most likely and effectual means to obtain the like favour for us. —

* See this Proposition printed as a supplement, on p. 802, *et seq.*, post.

† Sic.

Yor Petitioners therefore are humbly bold to Represent this matter before you, and to submit it to your wisdom and Care, and that if it might be her Majesty might be humbly address for the settlement of packett Boats to New England.

JOHN GEORGE

THO^o FITCH

JOSEPH PARSON

FRAN: CLARKE

WALTER NEWBERRY

ADAM WINTHROP

SAM^l PHILLIPS

THOMAS SAVAGE

JN^o BALLANTINE JUNR

JOHN COLMAN

PENN TOWNSEND

ANDREW FANEUIL

OLIVER NOYES

WM CLARKE

THO: PALMER

WM HARRIS./ —

SAMUELL KEELING

THO^o HUTCHINSON

N ROBERTS./

ELISHA HUTCHINSON

EM HUTCHINSON

JER: DUMMER.

EDW: BROMFIELD

DAVID JEFFRIES

JOHN WALLEY

EAST APTHORP

JOHN FOSTER

BENJ^a ALFORD

JOHN MICO —. — *Mass.*

Archives, vol. 62, p. 518.

This petition was presented at the first session and read in the House June 10, 1706, but nothing further seems to have been done upon it that session.

The committee appointed to prepare the address mentioned in chapter 52, *ante*, having reported the draught of such an address, which was accepted by the Council and sent to the representatives on the twenty-fourth of August, the present chapter was passed proposing the insertion of a clause.

On the thirty-first the following draught, which seems to have been intended for the "clause" in the address to the queen, was reported in Council: —

"To the R^t Honorable The Lords Commissioners of the Council for Trade and Plantations.

The Memorial and Adresse of the Council and Representatives of Her Matys Province of the Massachusetts Bay in New England in General Court Assembled —

May it Please your Lordships.

Whereas Her Majesty in Her Princely wisdom, for the more speedy Dispatch of the Affairs of State, as well as for the benefit and advantage of Trade and commerce, by a constant Settled Intelligence has thought fit to Establish a monthly Packett from England to Her Maj^{ty}s Island Plantations in America.

We are humbly of Opinion, That it would be a further service to the Crown, and an advantage to the Trade of Her Majesties Plantations on the Continent; If Her Majesty will be Graciously Pleased to Order a Packet for these Her Maj^{ty}s Provinces on the Shoar.

And are therefore humbly bold to Represent the same unto your Lord^{sh}ps And humbly to pray your Lord^{sh}ps Favour therein. —

R^t Hon^{ble} your Lord^{sh}ps

Most Obedient humble Servants.

In Council. August. *ult.* 1706./

Read and pass'd to be Engross'd and Signed by the Secretary and m^r Speaker, In the Name of the Council & Representatives." — *Ibid.*, vol. 20, p. 107.

This draught and the subjoined memorandum were sent to the House for concurrence, where, on the same day, they were read. On the fourth of September they were read again in the House, and a vote of nonconcurrence passed thereon.

These proceedings are thus recorded in the legislative journals of the Council: —

"Aug. 31, 1706. A Memorial & Address to the Right Hon^{ble} the Lords Commissioners of the Council for Trade & Plantations, Representing the Service of the Crown & Benefit to Trade, If her Majesty would be graciously pleased to Order a Packet for these her Majesties Provinces on the Shoar, Humbly Praying their Lordships Favour therein, Was Voted & Ordered to be Engross'd & Sign'd by the Secretary & M^r Speaker in the name of the Council, & of the Representatives — Wh^{ch} Memorial being sent for Concurrence, Was Return'd with a Non-Concurrence of the Representatives." — *Council Records, vol. VIII., p. 240.*

By the following entry it would seem that not only the above "clause" but the address itself was defeated by the disagreement of the two branches, since no evidence has been found that the House receded from its proposal to amend: —

"Sept. 4, 1706. The Draught of an Address to her Majesty reported by the Committee & unanimously Accepted in Council, was sent up from the Representatives with some Leavings out & Alterations made therein; Wh^{ch} the Council Disagreed to, & Voted that they do unanimously insist on their former Vote, & return'd it again to the House." — *Ibid.*, p. 243.

See chapter 89, *post*, and note.

Chap. 71. This chapter is from archives, vol. 62, p. 544. It is recorded in council records, vol. VIII., p. 238.

The duty upon imported tar, etc., under the general tariff of the provincial impost acts was one penny in the pound *ad valorem*. The present chapter was passed to remove the discouragement to importation in order to increase the amount exported to England from the province. The success of this experiment may be inferred from the following letter by Governor Dudley to Mr. Secretary Popple, dated at Piscataqua, October 21, 1706: —

"S^r:

The years papers of both provinces are in the Dover, This is by Captain Eason only to acquaint you thereof & to pray you to present my duty to their Lordships and to acquaint them I have used all diligence to put forward & regulate the business of Tarr. & Turpentine by all orders & encouragements, so as there is shipp^t ten thousand barrells of Tarr & Turpentine on these ships now coming I hope it will well arrive to be good, I shall not fayle to encourage the other article of hemp.

I pray you to make my service acceptable to their Lordships & I am well rewarded.

I am, S^r, Your very humble Serv^t

J. DUDLEY." — "*New*

England, Board of Trade," vol. 9, Q. 66; in *Public Record Office.*

Chap. 72. This chapter is from archives, vol. 11, p. 213. It is recorded in council records, vol. VIII., p. 210.

In the archives the order which constitutes this chapter is preceded by the following, which seems to be the report of a committee:—

"Mr Benjamin Choate went to dearfeild by his Excellencies order & ye desire of ye Representatives November 1704 & hath Continued there Ever since: he was allowed by the order of this Court for the first half year 20^{li} towards his support there: expecting y^t ye Inhabitants there would have allowed him soe much as would have been a Just Compensation for his Labors wth them. which he hath not Received not with standing y^e Good Intentions of y^e Hon^d Court: But soe it is he hath bene there Ever since & If he be not paid Either by them or by ye Inhabitants soe much as might be Justly Expected y^e sum of 40^{li} y^e Annu & his diet discharged he is a Great sufferer, y^t hath attended their service there, & ventured his life amongst them in such perilous times; hoping that his Excellency & this Court will not se him Out short of that w^{ch} he might Justly Expect for his service: he submits him self to y^e Justice of sd Court. for all y^t he hath yet Rec^d is noe more but 20^{li} towards his support for y^e time expended with them."—*Mass. Archives, vol. 11, p. 213.*

The order was passed in the House and sent to the Council for concurrence August 27, 1706, and on the thirty-first it was concurred in, and consented to by the Governor.

The following is the vote passed in Council for the payment of the allowance:—

"Sept. 13, 1706. To Mr Benjamin Choate Minister after the rate of Forty pounds y^e Annum for the time he has preached to the Town of Deerfield, the Twenty pounds he has already received to be accounted part thereof. Over and above which Twenty pounds above mentioned, the General Assembly at their Session begun the 24th of October 1705 Ordered the payment of the further sum of twenty pounds, and he having preached there by the space of one year and seven Months, there remains to pay the sum of twenty three pounds, six shillings and eight pence in full of his service."—*Executive Records of the Council, vol. 4, p. 316.*

The following item in the province treasurer's account shows that the above account was paid:—

"Paid Mr Benja Choate minister at Deerfield in full for his service for 1. year & 7. monthes he haveing received £20 — formerly Allowed by y^e General Assembly 43 .. 6 .. 8."

—*Mass. Archives, vol. 122, p. 275.*

See resolves, 1704-5, chapter 55, and 1705-6, chapter 68, and notes.

Chap. 73. This chapter is from archives, vol. 63, p. 56. It is recorded in council records, vol. VIII., p. 240.

For an account of the accusations against the persons named in this chapter, their conviction, and the event of the prosecution in each case, see the notes to private acts, numbers nineteen to twenty-five, inclusive.

The province treasurer entered the receipts of the several fines assessed upon the prisoners, as follows:—

"The said Accountant chargeth himselfe with y^e Fines received of the Several persons following being convict of high Misdemeanors. Att a Session of y^e Great & General Court or Assembly held at Boston by Prorogation upon Wednesday the 7th of August 1706.

Of Samnel Vetch Esqr	200 —
John Borland Merchant	1100 —
Roger Lawson Merchant	300 —
John Phillips Jun ^r Marri ^r	100 —
Ebenezar Coffin Marrin ^r	50 —

1750 —

& y^e further sum of £14 .. 5 .. 10 each Cost & charge of prosecution 71 .. 9 .. 2 . . . 1821 .. 9 .. 2."

—*Mass. Archives, vol. 122, p. 266.*

Chap. 74. This chapter is from council records, vol. VIII., p. 241. It has not been found in the archives.

For an account of the service for which the allowance in this chapter was granted, see the note to private act, number nineteen.

The order in Council * for the payment of this allowance was passed September 13, 1706, and the province treasurer's account † shows that it was paid.

Chap. 75. This chapter is from council records, vol. VIII., p. 241. It has not been found in the archives.

For an account of Butterfield's connection with Vetch's illicit trading with the enemy see the note to private act, number nineteen.

Cheever was of Boston. He had been a constable, and occasionally served as special messenger in the public service.

The order in Council ‡ for the payment of the allowance granted by this chapter was passed September 13, 1706, and the province treasurer's account § shows that it was paid.

Chap. 76. This chapter is from archives, vol. 71, p. 257. It is recorded in council records, vol. VIII., p. 241.

* *Executive Records of the Council, vol. 4, p. 316.*

† *Mass. Archives, vol. 122, p. 281.*

‡ *Executive Records of the Council, vol. 4, p. 317.*

§ *Mass. Archives, vol. 122, p. 282.*

This resolve was passed in the House on the thirty-first of August, and sent to the Council, for concurrence. On the third of September it was concurred in by the Council, and consented to by the Governor.

The money granted in this chapter, added to the previous appropriation (resolves, 1704-5, chapter 75), was still so inadequate that the building of the fort was not attempted, and the money under both these chapters remained in the treasury until after May, 1708.

See resolves, 1708-9, chapter 47, and note.

Chap. 78. This chapter is from archives, vol. 63, p. 67. It is recorded in council records, vol. VIII., p. 242.

The services which Captain Calley rendered, and for which he was allowed the sum granted in this chapter, are described in the notes to private acts, numbers nineteen and twenty.

The order in Council * for the payment of this allowance was passed September 13, 1706, and the province treasurer's account † shows that it was paid.

Chap. 79. This chapter is from archives, vol. 63, p. 57. It is recorded in council records, vol. VIII., p. 242.

This resolve originated in the House on the second of September, on which day it was sent to the Council, for concurrence. On the fourth it was concurred in by the Council, and consented to by the Governor.

See chapters 80 and 82, *post*.

Chap. 80. This chapter is from archives, vol. 63, p. 66. It is recorded in council records, vol. VIII., p. 243.

For the proceedings in which the bill of costs and charges allowed by this chapter was taxed, see the notes to private acts, numbers nineteen to twenty-five, inclusive.

The order in Council ‡ for the payment of this allowance was granted September 13, 1706, and the province treasurer's account † shows that it was paid.

Chap. 81. This chapter is from archives, vol. 40, p. 872. It is recorded in council records, vol. VIII., p. 243.

The services rendered by the Attorney-General in the prosecution of the persons accused of illicitly trading with the enemy are described in the notes to private acts, numbers nineteen to twenty-five, inclusive. For these he had received the grant of thirty pounds, § but he was not satisfied. He was evidently alive to the opportunity which the heavy fines recently brought into the province treasury, partly by his exertions, offered for securing a requital of the services he had rendered the queen in her provincial government since July 6, 1702, when his father appointed him to the post of attorney-general.

He therefore presented the following petition:—

"To his Excellency Joseph Dudley Esq^r Captⁿ General and Governour in Chief in and over her Majesties province of the massachusetts Bay in New-England the Honorable Her Maj^{ties} Council & the Representatives now in generall Court Assembled.

The Humble Petition of Paul Dudley Esq^r Attorney Gen^l to her Majesty, & Government of this Province./.

Sheweth

That Whereas yor Petitioner was above four years since appointed by the Governor and Council of this province to serve her Majesty's Government here, in the Office of Attorney General, in which Station yor Petitioner has Continued ever since, in the faithful discharge of his Duty according to his Capacity, and opportunity, particularly in Several Journeys that he has been forced to take to Bristol, Plymouth and Ipswich Superiour Courts for the prosecution of many Capital Offenders; besides the Constant prosecution of all other Offenders, nearer home,

But forasmuch as there is no allowance from her Majesty, nor any Salary or profits settled to or on yor Petitioner's Office afores^d: Except it be a single fee in Case the Criminal be convicted & not otherwise, which might Be A.Temptation rather than an Encouragement. And forasmuch as the other public Officers of the Government have from time to time some allowance from this Great & General Assembly. and particularly yor Petitioners predecessor Cap^t: Cheekley had one year with another about thirty pounds allowed him for his service.

Yor Petitioner in all humility and respect hopes this Hon^{ble} Court will order him that which may in some Measure Encourage him in and to the faithful discharge of his Duty to this Hon^{ble} Court, and the Interest of her Maj^{ties} Governmt & people of this province/.

Boston: 22^d of August: 1706

Archives, vol. 40, p. 871.

PAUL DUDLEY.—*Mass.*

This petition was read, first, in the House on the twenty-second and again on the twenty-seventh. On the thirty-first it was read a third time and the resolve which constitues this chapter was passed and sent to the Council, for concurrence. On the fourth of September it was concurred in, and consented to by the Governor.

The order in Council * for the payment of this allowance was passed September 13, 1706, and the province treasurer's account † shows that it was paid.

Chap. 82. This chapter is from archives, vol. 63, p. 1. It is recorded in council records, vol. VIII., p. 243.

See chapter 80, *ante*, and notes to private acts, numbers nineteen to twenty-five, inclusive.

* Executive Records of the Council, vol. 4, p. 316.

† *Mass. Archives*, vol. 122, p. 281.

‡ Executive Records of the Council, vol. 4, p. 317.

§ See chapter 80, *ante*.

¶ *Mass. Archives*, vol. 122, p. 275.

Chap. 83. This chapter is from council records, vol. VIII., p. 243. It has not been found in the archives.

The Sergeant Parker upon whom Doctor Bradstreet attended was probably Eleazar Parker, on account of whose sickness and funeral Captain Tyng was allowed the amount of disbursements made by Thomas Harvey.

The order in Council * for the payment of the allowance granted by this chapter was passed September 13, 1706, and the province treasurer's account† shows that it was paid.

See resolve, 1705-6, chapter 55.

Chap. 84. This chapter is from council records, vol. VIII., p. 244. It is preserved in archives, vol. 71, p. 253.

The memorial mentioned in the preamble to this chapter is as follows:—

"May it please your Excellency And the Hon^{ble} the Council & Representatives. In General Court Assembled

It's now three years past, since at your desire And choice, I have Transacted the Affairs of this Province Relating to the Office of Commissary General

In all which time I have with Utmost diligence and sincerity, According to the best of my Ability, performed the Duty of said Office— And for the more speedy dispatch of said Affairs, I have for most part of the time supported And paid at my own cost and charge two to Assist me, & one servant which have Constantly Attended said Office

And Indeed the many presecing Affairs. have taken up both their and my time— And the rewards which you have granted me for the service of said Office. at all times hath been as much as reasonably might be expected in such A time of great charge on the Province

Never the less I crave leave to Informe you. that When Two y^t Assist me are paid and a servant supported, I have not forty pounds of said reward Left for my self

True it is I never served my Country for Profit but In Duty & the love I bare to it— And Am well satisfy'd with the rewards granted me from time to time— And must needs Owne the kindness of his Excellency and Council. In Absence, of this Assembly, to support me in said Office And y^e whole Assembly when together to do the same,

But so it is. that by reason of weakness And Intirmity of body. I am not Able to Manage & Transact said Affair. as I have heretofore done— having in A late sickness. Almost Lost the use of my right hand Which render's me the more Un capable — Therefore pray your Excellency And Hon^{rs} that I may be free'd from the service of said place, And that you will proceed to appoint such A person to sustain It; As in your wisdoms. you shall think fitt—

In which you will greatly Oblige

Your Excellency's & Hon^{rs}

Most Obed^t & Hum^l Serv^t

AND^r BELCHER." — *Mass.*

Boston 20th Aug^t, 1706
Archives, vol. 71, p. 253.

This memorial was read, first, in the Council, on the second of September "and, at the desire of Mr. Commissary, sent down." On the same day it was read in the House and, on the third, the order which constitutes this chapter was passed thereon and sent to the Council, for concurrence. On the fourth it was read and concurred in.

In the mean time the resolve, chapter 85, *post*, granting two hundred pounds to Belcher for his services for the year ending the nineteenth of August was passed, and the faithful and laborious Commissary-General consented to continue in office.

Chap. 85. This chapter is from archives, vol. 71, p. 258. It is recorded in council records, vol. VIII., p. 244.

The order in Council * for the payment of the allowance granted by this chapter was passed September 13, 1706, and the province treasurer's account‡ shows that it was paid.

See note to chapter 84, *ante*.

Chap. 86. This chapter is from council records, vol. VIII., p. 244. It has not been found in the archives.

Emmes was first regularly appointed and commissioned messenger of the House in February, 1693-4, § in compliance with the report || of the joint committee on privileges. He served in that capacity, occasionally, after that date, but only once, ¶ and then for a special duty, after Dudley's arrival, until the present year. His appointment in this last instance was "at the desire of the House," to serve them during the trial of the persons charged with illicit trade with the enemy. He served, however, only during the first and second sessions.

The order in Council ** for the payment of this allowance was passed September 13, 1706, and the province treasurer's account †† shows that it was paid.

Chap. 87. This chapter is from council records, vol. VIII., p. 247. It is preserved in archives, vol. 17, p. 170.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excy Joseph Dudley Esq; Capt General & Governr in Chief in and over Her Maty's province of the Massach^{ts} Bay in New England, the hon^{ble} the Council and Representatives in General Court Assembled./—

* Executive Records of the Council, vol. 4, p. 316.

† *Mass. Archives*, vol. 122, p. 253.

‡ *Ibid.*, p. 275.

§ Province Laws, vol. VII., p. 30, foot-note.

|| Resolves, 1693-4, chapter 9.

¶ See resolves, 1705-6, chapter 99.

** Executive Records of the Council, vol. 4, p. 317.

†† *Mass. Archives*, vol. 122, p. 275.

The Petition of Mary Ward Widow late Relict & Sole Exec^x of the last Will & Testam^t of Ephraim Sale late of Boston Cooper deced./—

Humbly Sheweth,

That whereas the s^d Ephraim Sale, In & by his last Will & Testament, bearing date the 24 day of December 1686. amongst other things therein contained having first made due provision for his Wife, and bequeathed Several Small Legacy's Did devise & bequeath in the words following, That is to Say. 'Item I will, devise and bequeath the full Remainder of my Estate, as well real as personal whatsoever it is & wheresoever it may be found unto my Seven Children, including that my Wife is now big wth to be equally shared & divided among them part and part alike, or to So many as shall be then living, To enjoy the Same when the time for division comes; And if any dye before, leaving Child or Children, such Child or Children to stand in their parents stead; onely I will That my Sons Ephraim and Hopestil have each of them Ten pounnds more than a single share with their other Brethren & Sisters. Item I will That my Estate herein bequeathed unto my Children in equal proportion Saving as afores^d be kept Intire and Improved wthout any Division to be made thereof for the better Education of my Children, until my youngest Child That shall live be grown up to be disposed of so as to live without Charge to the Estate.'—

Now so it is may it please yor Excy, and this Hon^{ble} Court the time for Division of y^e s^d Estate having some time past hapned, and the Same being Actually performed to mutual Satisfaction, and an equal part thereof Assigned & Set forth for Samuel Sale Second son of the Testator; who has been Absent out of the Country by the space of Ten years & Upwards and is Supposed to be Dead, having not been heard of for more than nine years past, And the share allotted to him being a small Appartment in a brick Messuage or Tenement, which Tenement falls in Division with other of his Brethren and Sisters, who have Alienated their shares and Interests therein; And this share singly not being capable of any Improvement

Yor Petr prays That she may be Impowred by this hon^{ble} Court to make Sale thereof, the produce to be equally shared to & amongst the Surviving Brethren and Sisters of the s^d Samuel, They giving Security to refund & pay back, their ratable parts and proportions thereof to the s^d Samuel Sale his heires or Assignes if he be still living or have any Issue, when the Same shall be demanded./—

And yor Petr as in Duty bound shall ever pray &c.

Boston October 23^d 1706./.
Archives, vol. 17, p. 169.

MARY WARD."—*Mass.*

This petition was read in the Council on the twenty-eighth, and an order thereon was passed and sent to the House, for concurrence, agreeing with the order which constitutes this chapter, save that the last three lines read as follows:—

"Lawful issue, if any such be, when it shall be demanded; the allegations in the petition having been made certain."

On the next day the representatives concurred, with an amendment, supplying the omitted words, to which the Council agreed, and the order was consented to by the Governor.

On the seventeenth of December, 1706, Mary Ward, the petitioner, conveyed to Andrew Fanenil, in consideration of seventy pounds paid by him in money at the rate of eight shillings per ounce Troy weight, the grantor's interest in the premises described in the following extracts from the deed, to hold the same in fee simple, with appropriate words of grant and warranty:—

"Know yee That Whereas in the Partition and Division of the Housing and Lands of the said Ephraim Sale to and among his Children Pursuant to his Last Will and Testament bearing date the Second day of December One thousand Six hundred Eighty Six, There was Allotted Assigned and set forth unto Samuel Sale Second Son of the s^d deced^t for his Single Share thereof part of a certain Brick house and Land Situate in Boston afores^d fronting partly on the Street leading from the Townhouse to the Governours Dock commonly so called, and partly on another highway or street leading towards the Town Dock Viz^t such part of the s^d house and Land as is bounded Five foot upon the said Street leading from the Town house Twenty Seven feet ten Inches upon the other Street or highway leading towards the Town Dock including half Mr Thomas Clarks wall, and an Entry of Four foot wide five foot Northerly by the house of the s^d Clark, and Westerly by the other part of the s^d house set forth to Hephzibah Sale &c./ And Whereas the . . . Great and General Court or Assembly . . . Impowred the said Petitioner to make Sale of the Share of the s^d house and Land allotted to the s^d Samuel Sale accordingly . . .

The full Share part and Interest allotted unto the said Samuel Sale of and in the Brick house and Land aforementioned and Described with the Rights Members hereditaments Entrys passages profits priviledges and appurres thereto belonging Assigned and set forth to the said Samuel Sale upon the Partition and Division made of the housing and Land of his s^d late Father Ephraim Sale as afores^d."—*Suffolk Registry of Deeds, lib. 23, fol. 74.*

Chap. 88. This chapter is from council records, vol. VIII., p. 248, and archives, vol. 71, p. 238.

The particulars of the journey out of Shelden and his companions on their mission to the Governor-General of Canada, and of their return to Boston from Quebec in the bark Marie, are given in the note to chapter 54, *ante*.

As has been shown, the General Court, which stood prorogued to the seventh of August, assembled in its second session upon the day appointed. Early in this session the following petitions praying for compensation were presented, and read first in the House, apparently on the tenth:—

"To His Excellency Joseph Dudley Esq^r Captain Generall, and Governour in chlef, of Her Maj^{ties} Province of the Massachusetts Bay, and the Honourable the Councill, & Representatives, in Generall Court Assembled.

Augth 8th 1706

The Petition of John Shelden, in behalfe of himself, Joseph Bradley, and John Wells. Humbly Sheweth.

That your Petitioner, with the aforementioned Bradley, & Wells, were Sent by Your Excellency and Council, the last winter by Land to Canada, to Obtain the Return of the Captives, wherein they have so far Succeeded, as that on the 2^d instant, They Arrived here with forty four of the s^d Captives, Your Petitioner Entred upon the said service, on the 15th day of Januy last, the said Bradley on the 20th day, & the s^d Wells, on the 25th day of the same month.

Your Petition^r therefore humbly Pray's Y^r Excellency, and this Hon^{ble} Court, to Take into your Consideration, their service afores^d and the extraordinary, Dilicnly; Hazard and Hardship, they have undergone & the time spent therein, and Order Them such Allowance, & Consideration, for the same as in your wisdom you shall think meet:

And Y^r Petition^r as in Duty bound shall ever Pray

JOHN SHELLEN." — *Mass.*

Archives, vol. 71, p. 237.

"To his Excellency Joseph Dudley Esq^r Cap^t General and Governor in Chief in and over her Maj^{ties} province of the Massachusetts Bay, and To the Hon^{ble} her Maj^{ties} Council & House of Representatives now in General Court assembled, August 7th 1706. —

The Humble Petition of John Wells & Joseph Bradley.

Sheweth

That y^{or} Petitioner's were lately sent by his Excellency to Quebeck with Mr Sheldon and in their Journey they were necessitated to be at some Expences and y^{or} petition^r Wells Expended above three pounds ten shillings, and Bradley forty shillings, besides Snow-shoes & pumps, which Cost him thirteen shillings, and a Dog 15^s and Beside there was a Gun hired for the Voyage valud at 50/. which sd Gun was broken accidentally in y^e discharging.

Y^{or} Petitioners therefore humbly pray that they may be allowed the Disbursements above mentioned and y^e money for the sd Gun &c,

And y^{or} Petitioners shall ever pray &c.

JOHN WELLS

JOSEPH BRADLEY." — *Ibid.*,

p. 236.

Nothing further appears to have been done upon either of the above petitions until the fifth day of the third session (the twenty-eighth of October), when Shelden's petition was read again, apparently in the House, and referred to a committee, and on the next day the resolve which constitutes this chapter was reported, passed, and sent to the Council for concurrence, where it was immediately concurred in, and consented to by the Governor.

The order in Council* for the payment of these allowances was passed November 5, 1706, and the province treasurer's account† shows that they were paid.

Filed with these petitions are the two following papers:—

"1706
Jan^y 17 Mr. John Shelden had of the Comissy Gener^{ll}
Sundries to fit himself for his Journey to
Canada amonnting to . . . £^{ll}. 4^{ll} 11^{ll} . 6
A Bill upon Lewis Marchand for which he
rec^d at Quebeck. "2^{ll} 10^{ll} . .
Sundries to fit John Wells for the s^d Journey
as p^d s^d Shelden's Rec^d in the Comissy
Gener^{ll}s office £^{ll}. 7^{ll} 1^{ll} . 6
— *Ibid.*, *p. 239.*

"An account of what John Shelden (who was improued by his Exclency to goe to Cannada To Treat about y^e English Captives) hath Expended vpon y^e Country's account in Canada

1	for himself and y ^e Captives in Generall by Taylors work in making clothes	liners Soes	17 - 00
	To Mr Dilenot paid for cloath for cloathing for stokins shoes a shirt and a hat and a pair of glones and a neck cloath		106 - 11
	for a Coriall To goe to See y ^e captives att y ^e mohawk fort		12 - 00
	for a Canoe and men To goe from Quebeck To viset Mr williams more paid To Mr La Count my land lord at Guebee †		06 - 00
	more payd To y ^e Barbour for me and my men and for blooding more paid for washing		38 - 00
	more paid to my land lord att Montreall		21 - 10
	more paid for my 2 nd viset of y ^e captives att y ^e mohawk fort		08 - 00
	more what i laied out for the captives when i came away from canady and one the salers		77 - 06
			04 - 08
			42 - 10
2	for Jun ^o wells for a hat 16 liners for silk 8 liners for a pair of stokins 12 liners: for a shirt 8 liners 11 soes		44 - 11
3	for Joseph Bradley for a shirt		08 - 13
			44 : 11
			08 : 00

* Executive Records of the Council, vol. 4, p. 329.

† *Mass. Archives*, vol. 122, p. 282.

‡ *Sic.*

4	Delivered To Mr Jn ^o Williams	200 - 00	
5	Layd out for my daughter mary for her nesasary cloathing	59 - 00	} „74 „ 00
	more for my datter	15 - 00	
6	more for y ^e captives for Two Blankets	17 - 00	
		..9	126 „ 11
<hr/>			
	Expended at port Royal		
7	To y ^e doctor for Ju ^o wells and for other Things for y ^e Captives	12 - 00	
		689	
8	for packet Expences 10 ^u - 00 ^d - 00 ^d at 20 ^d p liver is	120	
		809	

£67 : — : 9^d. * — *Ibid.*, p. 240.

The latter account is endorsed as follows : —

“ Mr John Sheldens acct of Exspences at Cannada recd the 19th Aug^t 1706.” — *Ibid.*

An account allowed by the Council July 22, 1706, includes a charge for “ Mr Shelding’s expences in his journey to Canada.” This account “ having been examined by Mr Commissary General,” and “ presented with the particular accounts from whence it ariseth,” was approved and a warrant upon the province treasurer was ordered for discharging the same by paying “ five hundred twenty two pounds one shilling and seven pence to Lieut. Col^l Samuel Partridge on behalfe of the several Towns and persons respectively concerned.” †

Shelden went to Canada a third time, in the same capacity, April 17, 1707. See resolves of that year, chapter 38, and note.

Chap. 89. This chapter is from archives, vol. 88, p. 347. It is recorded in council records, vol. VIII., p. 249.

The following is Campbell’s petition : —

“ To His Excellency Joseph Dudley Esq^r Capt General and Governour in Chief in and over Her Majesty’s Province of the Massachusetts-Bay in New-England, &c. And to the Hon^{ble} Her Majesty’s Council, and the House of Representatives convened in General Assembly, and now sitting in Boston the 29th day of May 1706.

The Humble Petition of John Campbell Post-Master of New-England.

Sheweth

That Whereas it has been usual for your Petitioner to have an Annual Allowance from this Province, the better to enable him to a faithfull discharge of his Post, (seeing the Proprietour thereof is not able by the Incomes of the said Office, which is Less then the Necessary Charge, to give him any Tollerable sallary proportionable to the Trouble and Charge attending it) In which he has now served three years and nine Months, and has only had Two years and an halves Allowance paid him.

And That your Petitioner for a Publick Good above Two years ago has been at the Cost and Charge to print a weekly Letter of Intelligence of both foreing and Domestick Occurrences, which was sett at a More Moderat price then it was in some part of England, notwithstanding the Charge here is above four times dearer then it would cost there, yet your Petitioner has not had sufficient Enconragment to defray the Necessary Charge thereof.

Your Petitioner therefore Most Humbly Prays.

That yor Excell and this Great and General Assembly will be Pleased to take the same into your most Mature & wise Consideration so as to Enable your Petitioner to a faithfull discharge of both Trusts.

And yor Petitioner as in Duty bound shall ever Pray being allways.

Yor Excell and Hon^{rs} Most Humble,

Obedient and faithfull Serv^t

JN^o. CAMPBELL.” — *Mass.*

Archives, vol. 88, p. 346.

This petition was read, first, in Council on the fourteenth of June and sent to the House. On the twelfth of July it was read in the House, but no further action upon it during that session is recorded. In the third session it was read, first, on the twenty-eighth of October and again on the thirtieth, when the resolve which constitutes this chapter was passed. It was read and concurred in by the Council, and consented to by the Governor, on the same day.

The order in Council ‡ for the payment of this allowance was passed December 18, 1706, and the province treasurer’s account § shows that it was paid.

In the note to chapter 70, *ante*, is given an advertisement, copied from the News-Letter, of improvements in the foreign mail service previons to the passage of that chapter. The following additional items relating to the Boston post-office, from the same paper, are given as appropriate to the present chapter : —

“ **T**hese are to give Notice, that by Virtue of a Direction in the Act for Encouraging a Post-Office in this Province: The Post-master of Boston does send out every Two days after that the Post comes in, and after the Receipt of Foreign Letters by Sea; All such Letters and Packets that remain in the Office uncall’d for; And if the Persons they are directed to cannot be found, or that the said Letters or Paquets are for any Persons in the Neighbouring Towns out of the Post Road; Then the Names of the said Persons are every day to be seen on a fair Alphabetical List for the Sirname, with the name of the Town they

* *Sic*: that is, New-England money; actually, £67 0s. 10d.

† Executive Records of the Council, vol. 4, p. 301.

‡ *Ibid.*, p. 353.

§ *Mass. Archives*, vol. 122, p. 282.

live in: If they are for the Town of Boston, then no Town added. So that all Persons may know without Enquiring, when they have any Letters in the Office, excepting as above-said, when the Post comes in, or the Arrival of Vessels." — No. 115. June 24 to July 1, 1706.

"[These are to give Notice to any Person or Persons who design to send any Letters for England via Piscataqua, to go either by Her Majesties Ship the Dover, The Mast Ships, or any other Vessels; That they may bring them to the Post-Office in Boston, and paying the Postage, shall be carefully put on board the respective Vessel or Vessels they are directed to go by.] — No. 128. September 23 to 30, 1706.

"[The Southern & Western Post not yet come in at the Printing hereof at 8 a Clock Monday Morning.] — No. 131. October 14 to 21, 1706.

"[All the Letters that came from New York and other places Post Paid, and those received at Boston, these three last Posts, to be forwarded to the Fleet at Piscataqua, bound for England, were made up by the Post Master of Boston in several Packets, Directed for the Master of the respective Vessels they were ordered or writt upon to go by, which said Letters and Packets were safely delivered each Post at Piscataqua to the said Masters, and particularly those of the last Post before the Fleet Sailed, on Thursday the 25 Instant.] — No. 132. October 21 to 28, 1706.

Chap. 90. This chapter is from archives, vol. 71, p. 202. It is recorded in council records, vol. VIII., p. 249.

The following is Baker's petition: —

"To his Excellency Joseph Dudley Esq^r Cap^t Generall and Goven^r in Cheife in and over her Majesties Province of the Massachusetts Bay in New England &c and to the Honorable her Majesties Councile and House of Representatives now in Great and Generall Court Assembled this 29 day of May 1706

The Humble Pitition of Jonathan Baker of Salem

Humbely Sheweth —

That yor Pititioner some time in August 1701 had his servant John Coleburn Impressed into her Majesties servis at the Eastward where hee served vnder Cap^t Lane tell some time in July following when as he was Laying in a Barne at or neere yorke was dangerously Wounded through the Bodey by som shooting at a Marke against sd Barne and Continued vnder the Doctors Hands in said service vntel December Last But on the 19th of December Last past your Pitition's said servant John Coleburne Returned Home being Released from sd service: but his Wounds were not nor are not yet Cured, but he was still in a very dangerous Condition by Reason there of the which obliged yor pore Pititioner to Remoue his said servant to Concord that he mite be neere Doctor Jonathan Prescott senr the said John Coleburn's Condition being so very dangerous Required the best means that Could be found for a Remedy: and he hath Ever since been vnder the Hands of the said Doctor Prescott where your Pore Pititioner is also obliged to pay for his said servants Board and now your Poore Pititioner Humbely Prays that yor Excellency and Honors would Please to take the Premises in to yor serious Consideration and Grant your Pititioner such allowance for subsistance Losse of time and Payment of the Doctor heather to as yor Excellency and Honrs in your wisdom and Justis shall think meet and yor Pititioner as in duty bound shall Ever Pray &c

JONATHAN BAKER." — *Mass.*

Archives, vol. 71, p. 203.

With this petition, which appears to have been presented at the first session and read in the House, first, on the twenty-fifth of June, Baker filed the following certificates: —

"Concord June y^e 16th 1706:

These may certify whom it may concern y^t Jn^o Colburn of Beverle (who was wounded in his breast, by an akcident at yorke) Remains yet in a very weak condition, unable to do any thing toward his maintainance, Notwithstanding he hath been under my hands in y^e use of y^e best means I can improve for above six months. he has yet sevral Running sors in his breast.

As atests: JONATHAN PRESCOTT Sen^r
Chirurgeon." — *Ibid.*,

p. 205.

"These may sertifie whome itt may Concern thatt John Colburn a soulder thatt wass under my Command wass wounded when he wass in her maj^{ty} service he wass accidentelly shoott by one of y^e Inhabitants of yorke sum time Last July

Dated att Sallmon falls y^e 18 of July 1706 P^r me JOHN LANE." — *Ibid.*,

p. 206.

On the thirteenth of Augnst the petition was again read in the House and referred to a committee, who seem to have reported by the twenty-ninth of October the resolve which constitutes this chapter.

In the mean time Baker had procured and filed another certificate from the physician, as follows: —

"Concord Sep^r 26: 1706

These may Certify whome it may Concern y^t Jn^o Colburn who was wounded in Her Maj^{ty} service at York by an akcident hath been under y^e hands of me y^e subscriber. (for a cure of s^d wound) ever since the middle of jan^y last & through y^e goodness of God is much beter but not well and I feer never will be otherways than a Creepie, he yet Remains under my Care & for what is past beside nine months Diet washing & lodg- . . . ti s d
ing I demand 5 - 10 - 00
& for diet at :4: P^r weeke amounts to 6 - 16 - 00

12 - 06 - 00

JONATHAN PRESCOTT Chirurgeon."

— *Ibid.*, p. 204.

On the thirtieth the resolve was passed in the House and sent to the Council, for concurrence, and on the same day it was read and concurred in, and consented to by the Governor.

The order in Council* for the payment of this allowance was passed December 18, 1706, and the province treasurer's account† shows that it was paid.

Chap. 92. This chapter is from archives, vol. 71, p. 261. It is recorded in council records, vol. VIII., p. 250.

This chapter is based upon the representation made in the following petition:—

“To His Excellency Joseph Dudley Esq^r Captain Generall, and Governour in chief of her Majesties Province of the Massachusetts Bay, in New England, & To the Honorable the Council. & Representatives

The Petition of Benjamin Stevens

Humbly Sheweth

That Y^r Petitioner being Comission'd by y^r Excellency to Command a Company of men, march'd with them into the woods in q^{uest} of the Indian Enemy in July last, ‡ in which time Y^r Petition^rs House was broken up, and severall things of value stolen from him, amongst which were five Certificates of Wages, due to him & souldiers, that serv'd Her Majesty under him, in a march made in January and february last; Three of the s^d Certificates were ordered to be paid by three Constables of Boston amounting to the sum of £73^{..} 7^{..} 9, another by the Constable of Bradford, for the sum of £11^{..} 6^{..} 15^{..} 8, the other by a Constable of the Town of Haverhill, for the sum of £4^{..} 11^{..} 4, the whole amounting to the sum of £84^{..} 3^{..} 9, which your Petitioner has ever since made diligent search after, and Us'd his utmost Endeavour, to find out, & Recover, but can by no means hear thereof, or see any probability of Obtaining them

And Y^r Petition^r with the men that serv'd under him are all without their Pay (except two paid by a Certificate on Boxford Constable) and have no Prospect of ever Procuring it unless by Y^r Excellency, & Hon^{rs} favour & Authority.

Your Petition^r therefore humbly Pray's Your Excellency, & Hon^{rs} to Order the Treasurer to Deliver, to him, five other Certificates, of the same Tenour, with those abovementioned, stolen from him Or give such other Direction, as in your wisdom shall be thought best, whereby your Petition^r and those that serv'd under him may Obtain the wages due for their service, aforesaid.

And y^r Petition^r as in Duty bound shall ever Pray.

BENIAMEN STEUENS.” — *Mass.*

Archives, vol. 71, p. 259.

With the petition Stevens filed the following list of certificates on the constables of several towns, making up the whole amount due on his muster-roll:—

“Muster Roll of Capt Benja Stevens wth Warrant bareing date y^e 22th July 1706 for y^e sum of £87^{..} 12^{..} 5 for y^e which there were Certificates granted upon Several Townes following dated y^e 22th July 1706

The Constables. of

Boston one Certificate for	19 ^{..} 16 ^{..} 4
Ditto	32 ^{..} 3 ^{..} 3
Ditto	21 ^{..} 8 ^{..} 2
	<hr/>
	73 ^{..} 7 ^{..} 9
Bradford	6 ^{..} 15 ^{..} 8
Haverhill	4 ^{..} 11 ^{..} 4
X Boxford	3 ^{..} 8 ^{..} 8
	<hr/>
	£87 ^{..} 12 ^{..} 5.”

— *Ibid.*, p. 260.

This petition was read in the House on the tenth of October. It next appears in the Council on the thirtieth, when the order which constitutes this chapter was passed and sent to the House, for concurrence, where it was immediately concurred in, and consented to by the Governor.

The order in Council of the twenty-second of July for a warrant to pay the muster-roll mentioned in the preamble to this chapter is as follows:—

“July 22, 1706. A Muster Roll of the Foot Company under the command of Captⁿ Benjamin Stevens, containing an Account of Wages due to the Officers and Souldiers for their service from the 22^d of January 1705 to the fourteenth of February following, the Captain beginning sooner and ending later, amounting to the sum of seventy eight p^{as}, twelve shillings and two pence, whereof nine pounds four shillings & two pence being subducted for Commissary, rests sixty nine pounds, eight shillings, and fifteen pounds ten shillings and five pence remaining due for subsistence to his Company on their march to Norridgewock, & fifty four shillings for Posts, makes in all eighty seven pounds twelve shillings and five pence, having been examin'd by M^r Commissary General, was presented—And.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the above sum of eighty seven pounds twelve shills and five pence to the said Captⁿ Stevens and Company accordingly.” — *Executive Records of the Council, vol. 4, p. 299.*

The following is the entry of payment in the account of the province treasurer:—

“Paid Capt Benja Stevens & his Comp^a y^r served her Maj^{ty} on a March to Norridgewock Wages for y^r service & 54^{..} charge of Post . . . 87^{..} 12^{..} 5.” — *Mass. Archives, vol. 122, p. 274.*

* *Executive Records of the Council, vol. 4, p. 353.*

† *Mass. Archives, vol. 122, p. 283.*

‡ See note to chapter 149, *post*.

The apparent discrepancy between the amount ordered by this chapter and the amount actually paid is owing to the fact that the certificate to the constable of the town of Boxford, amounting to £3 8s. 8d., was not one of the stolen certificates.

The News-Letter's report of the beginning of the march, which Stevens refers to in the above petition as "made in January and February last," is given in a foot-note to chapter 4, page 570, *ante*. The following report of the return of his company and of the others who went out with him appeared in number ninety-six of the same paper:—

"[Boston.] Last week returned Capt. Brown, Capt. Tyng and Capt. Stevens with their Companies all well and in health after 17 days march into the Woods, 50 miles above the Heads of the Frontiers from between Connecticut River & Merrimack, in the late great Storm of Snow, but neither discovered nor met with any of the Enemy."—*February 11 to 18, 1705-6*.

The muster-rolls of Captain Stevens and Captain Joseph Brown* were approved at the same time. Captain William Tyng's† muster-roll was approved April 19, 1706. The payment of those of Brown and Tyng likewise appears charged in the province treasurer's account.‡

Chap. 96. This chapter is from archives, vol. 48, p. 383. It is recorded in council records, vol. VIII., p. 251.

The particulars of the extraordinary services of the Governor, Council and Assembly, as a reward for which this allowance was granted, are narrated in the notes to private acts, numbers nineteen to twenty-five inclusive.

The following are, respectively, the order in Council for a warrant to the province treasurer to pay the sums granted, and the charge of payment in his accounts:—

"Nov. 13, 1706. Pursuant to a Resolve pass'd by the General Assembly in their present Session, that the several sums & allowances, ordered for his Excellency, the Members of the Council, and the Representatives for their extraordinary service the last Session of this Court be forthwith paid out of the publick Treasury, without any reference to the fines laid in that Session: That is to say,

That the sum of Fifty pounds be paid to his Excellency

To the Members of the Council the sum of Forty two pounds eighteen shillings, being after the rate of two shillings p diem each.

To Mr Speaker and the Representatives the sum of one hundred twenty nine pounds, eighteen shillings,

And that his Excellency be desired to give out Warrants accordingly.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of Fifty pounds, to Edward Bromfield § Esqre and the above sum of Forty two pounds, fourteen shillings to Edward Bromfield Esqre on behalfe of the Gentlemen of the Council, & the further sum of one hundred twenty nine pounds, eighteen shillings to Mr Thomas Oakes Speaker for himselfe and the house respectively."—*Executive Records of the Council, vol. 4, p. 333*.

"Paid his Excellency &c Governor the Members of y^e Council & the Representatives for their Extraordinary service y^e session in August 1706

Allowed by the General Assembly 222 „ 12 „ -."

—*Mass. Archives, vol. 122, p. 281*.

Chap. 97. This chapter is from council records, vol. VIII., p. 252. It has not been found in the archives.

Dole's account, mentioned in the preamble to this chapter, has not been found.

The order in Council|| for the payment of the allowance granted by this chapter was passed December 18, 1706, and the province treasurer's account¶ shows that it was paid.

Captain Henry Sommerby, to whom the treasurer's account was ordered to make payment in Dole's behalf, was the representative to the General Court from Newbury.

Chap. 98. This chapter is from council records, vol. VIII., p. 253. It has not been found in the archives.

The order in Council** for the payment of the allowance granted by this chapter was passed December 18, 1706, and the province treasurer's account¶ shows that it was paid.

Sargent ran the lower ferry between Newbury and Salisbury. As shown in the note to resolves, 1693-4, chapter 12, he had taken a lease of it from John March. This was apparently in the year 1691-2.†† On the third of September, 1703, an order was passed in Council for a warrant to the province treasurer to pay him 35s. 2d., "for Ferriage of Souldiers and Posts in the year 1702 and for refreshment of Posts,"‡‡ which sum was accordingly paid.§§ The account upon which was based the resolve that consti-

* Executive Records of the Council, vol. 4, pp. 299, 300.

† *Ibid.*, p. 279.

‡ *Mass. Archives, vol. 122, p. 271*.

§ One of the Council.

¶ Executive Records of the Council, vol. 4, p. 353.

|| *Mass. Archives, vol. 122, p. 284*.

** Executive Records of the Council, vol. 4, p. 354.

†† In a deposition by Philip Greely, June 24, 1717, he declares that Sargent "Kept ferry & Carried over Passengers & horses from or near y^e Warehouse point" in Newbury to King's Island in Salisbury, and from the Island to the Point, from the year 1692 to the year 1702, "or thereabouts;" and in the appellants' reasons of appeal in the case of James and Richard Carr vs. Sargent in the Superior Court of Judicature for Essex County, November, 1719, they declare that Sargent had unjustly kept a ferry from September, 1691, to March, 1703.—*Suffolk Court Files*.

‡‡ Executive Records of the Council, vol. 3, p. 480.

§§ *Mass. Archives, vol. 122, p. 196*.

tutes the present chapter was for ferriage of soldiers and horses during the next four years.

The suit brought against March in the Inferior Court of Common Pleas, at the September term, 1693, it will be remembered, was stayed by the operation of resolve chapter 12 of that year. Five years later* March recovered costs against the plaintiff for not prosecuting that suit: the parties, the magistrates, and the clerk of the Court seeming to have entirely lost sight of the vote which constitutes that resolve, save that the Carrs appear to have had some recollection that "a letter of advice" to such effect had been received from the Governor.

The proposal made November 22, 1687, by March, and accepted by the town of Salisbury, for connecting that town with the ferry at King's Island, is printed in the note to resolves, 1693-4, chapter 12.† By 1701, this way was so defective that on the thirtieth of September of that year the Court of Sessions ordered the parties interested to repair it in accordance with their contract. This order proving ineffectual, the Court of Sessions held at Ipswich, March 30, 1703, appointed Major Francis Wainwright and Captain John Whipple of Ipswich, and Captain Joseph Boynton of Rowley, a committee to view the situation and report upon the expediency of laying out a highway over the same route. At the same Court the following order was passed for establishing the ferry, by which, it would seem, that March's or Sargent's ferry had not been run regularly, owing, wholly or in part, to the bad condition of the Salisbury causeway leading thereto:—

"There having been for Several Years last past Many complaints Made to this Court for want of a ferry duely stated Over Merrinack River Nigh Capt Edward Serjeants betwixt Newbury & Salisbury & Sundry Motions made from time to time Referring to the Same & now renewed applications Made by Newbury & Salisbury that a ferry be kept at y^e place aforesd and yt the keeping & profit thereof might be stated, & Settled upon the said Townes & a Boat to be constantly kept on each side duely to attend y^e said ferry vizt One by Newbury & y^e other by Salisbury. This Court having Considered y^e necessity & Conveniency of the premises do approve of the same in manner following

1. That there be a ferry kept over Merrinack River hence forward from Newbury to Salisbury Nigh where Capt Serjeant now dwells.

2. That there be Two Sufficient & Suitable ferry Boats for the Transporting of Men & horses y^e one kept at Newbury & the other at Salisbury Side provided & Maintained respectively by said Townes & Sufficient skillfull men Constantly to ply in the same and yt each Town do on their Shoars respectively make convenient Cansways or other Comodious places for y^e Safe & easy boarding & landing horses & men & yt each Town do give Two hundred pound by Two sufficient men for y^e performance of this Court order according to y^e true intent & meaning thereof that the publick may be faithfully Serv'd.

3. That the profits of the said ferry shall redound to the sd Townes as their own particular boats shall Earn

4. That the fare of said ferry be four pence for a horse & Two pence for a man & proportionable for other things.

5. That inasmuch as Newbury Common Land or high way comes to y^e ferry aforesd so yt they have no Occassion to purchase a way thro any proprietries & it being otherwise as on Salisbury side wherefore in regard Newbury hath halfe the benefit of y^e ferry Therefore they shall pay y^e one halfe of y^e first purchase of y^e high Way on Salisbury side as it shall be laid out from said ferry to y^e Common Road in Salisbury where it may lay thro any particular proprietries as it shall be appraised according to Law but shall not be obliged to pay any part of making or repairing y^e said way passable either now or hereafter."

— *Essex County Court of Sessions, 1696-1718, p. 116.*

This proposition to establish a public ferry, the cost of which was to be apportioned upon the two towns more immediately benefited thereby, was approved and accepted by the inhabitants of Salisbury at a general town meeting held April 20, 1703, as follows:—

"Voted to accept & approve of the doings of the quarter Sessions concerning the ferry. Mr. J. Ring & Mr. Philip Greely ‡ appointed to give bond in behalf of the town in compliance with the decision of sd court town to save them harmless.

Selectmen & sd Comm. to provide a boat & hands & what else is necessary for keeping sd ferry in the town's behalf & to prosecute any persons who shall carry over any persons contrary to law." — *Town Records.*

At the Court of Sessions held at Salem, June 29, 1703, the committee appointed at the March term reported the necessity of a highway at the place designated, and a warrant was ordered directing the sheriff to summon "a jury to lay out and appraise the same."

During the above proceedings, March was in active service as lieutenant-colonel of the forces at Casco Bay detailed to repel the French and Indian enemy. As soon as he was informed of what had occurred in his absence, he applied to the Court of Sessions to be restored to the use of the ferry, under the grant made to him in the time of Sir Edmund Andros and afterwards confirmed by the justices of Essex and virtually ratified by the subsequent action of the General Court. The following is the record of the decision and order of the Court of Sessions, held at Ipswich, March 28, 1704, upon March's petition:—

"Upon reading y^e Petition of Lient Coll^o Jno March of Newbury for his being restored to y^e ferry, called Marches Ferry at Newbury aforesd over Merrinack River, sd March producing y^e Governour & Councils Grant & other Papers of y^e former Justices referring to y^e Settlement of y^e sd ferry on him we this Court was not apprised of y^e last March Court we being Considered by this Court, tis Ordered & Concluded, that y^e sd Jno March be in y^e Possession & Improvement of y^e sd Ferry as formerly, accord- § to y^e Grant made

* Inferior Court of Common Pleas, Newbury, September 27, 1698.

† Province Laws, vol. VII., p. 407.

‡ Ring and Greely had been appointed, at a town meeting held on the twenty-third of March, to represent the town at the coming Court of Sessions. — *Town Records.*

§ Sic.

by y^e Governour & Council to him the s^d March. Provided y^e s^d March be undr Such Regulations from time to time as this Court hath or shall Ord^r with respect to keeping & maintaining s^d Ferry, & that part of y^e way & Bridge to keep in repair on Salisbury Side as he was by agreement w^t s^d town of Salisbury to perform & also to make Restitution to y^e s^d towns of Newbury & Salisbury of such Sum or sums as they shall reasonably make appear to this Court that they have advanced whilst y^e s^d Ferry hath been in their possession y^e Profits of s^d Ferry in y^e Interval of s^d Marches Possession being deducted out of s^d Sums. Provided also y^e s^d March forthwith give bond with sufficient Surties, to this Court or Such as they shall appoint to take s^d Bond for y^e faithful performanc of y^e s^d Several Regulations & appointments with respect to s^d Ferry as he may be appointed to.

Ordered that Mr W^m Browne Esq; & Jon^a Corwin Esq; or either of them w^t y^e Clerke take s^d Bond." — *Essex County Court of Sessions, 1696-1718, p. 132.*

In conformity to the above order, March gave bond to the county treasurer April 22, 1704, which, on the same day, was sworn to by the subscribing witnesses, before William Browne, one of the justices of the county. It ran as follows: —

"Know all Men by these presents that Wee John March of Newbury in the Countrey of Essex in New England Gent^m as Principle and John Traske Sen^r of Salem in the Countrey aforesaid miller and John Rogers of Ipswich within said Countrey sadler as sureties are held and firmly Bound unto John Appleton Esq; Treasurer for said Countrey of Essex and his successors in said office In the full and Just sum of four hundred pounds Currant mony of New Enland to be paid unto the said John Appleton Esq; or his successor In the office be fore named of Countrey Treasurer or any or Either of their Attourneys the w^{ch} payment well and Truly to be maid wee the said John March John Rogers and John Traske Sen^r do bind and obblidge our selves our heirs Executors and administrators Joyntly and severally for the whole and in y^e whole firmly by these presents Sealed with our Seales this 22^d Day of Aprill *anno Dom.* 1704.

The Condition of this obligation is Such that whereas Her Maj^{ties} Justices in Sessions assembled at Ipswich y^e 28th Day of March 1704 did restore vnto the Said John March y^e vs^e & Exercise Improvement & profits of y^e ferry betwixt Newbury & Salisbury nigh Cap^t Sarjeants as formerly Wherefore in Case & Provided y^e Said John March his agents attorney or attorneys shall from time to time fulfill & perform Such conditions & Regulations as y^e Queens Justices in Sessions to be assembled at any time hereafter Shall appoint & Shall in y^e Mean time provide & Maintain sufficient boat or boates with skilfull hands to attend in y^e Same & To pligh constantly & attend y^e Transporting of men & horses as Occasion May require without delay & In all respects Treat Her Maj^{ties} Subjects Civilly & kindly then this present obligation to be void & of no Effect Elce to remaine in force & vertue.

Signed Sealed & DD
In presence of ys
JOHN ORNE JUN^R
ROBERT BEADLE
STEPHEN SEWALL

JOHN MARCH & a Seale
JOHN TRASKE & a Seale
JOHN ROGERS & a Seale

Province of y^e Mass^{ts})
Bay in New England) Essex ss John Orne Jun Robert Beadle & Stephⁿ Sewall all personally appeared before me y^e subscriber One of Her Maj^{ties} Council of y^e province aforesd & Justice of y^e peace within y^e Same & made Oath that they Saw L^t. Cole John March John Traske Sen^r & John Rogers y^e persons that Subscribed y^e within bond Sign & seale y^e Same & they y^e Said Deponents Subscribed as Evidences therewith Sworn this 22^d day of aprill *anno Dom.* 1704.

WM BROWNE

Copia vera attest STEPHⁿ SEWALL Cler^t. — *Essex Court of Common Pleas: Files.*

March also instituted criminal proceedings against Thomas Moody and John Tappan "for that y^e s^d Thomas Moody & John Tappen several Days Since y^e 28th Day of March last past [the date of the above decision of the Court of Sessions restoring to him his ferry], have presumed (without a License) to keep a Ferry over Merrimack River at y^e Ferry called March his Ferry in New England afors^d by carry* over Men and Horse^s cross said Ferry each having a Boat employed in that Service and for taking and receiving Money of Passengers so carried Over They not being Licensd thereunto, w^e is contrary to Law &c. as p^d Complaint at large appears."†

The defendants being bound over to the Court of Sessions by Francis Wainwright, the justice before whom March entered his complaint, that Court, on the twenty-seventh of June, passed judgment as follows: —

"On dne Consideration whereof y^e Courts Judgment is that it is not Cognizable here at this Court being a Trespass betwixt Subject and Subject, & therefore its dismist." — *Essex County Court of Sessions, 1696-1718, p. 136.*

March next applied to the Court of Sessions for an order upon the towns of Salisbury and Newbury to account to him for the tolls received by them during the time they or their agents ran the ferry under the adjudication of the Court of Sessions of March 30, 1703, and to enjoin them against further interference with his franchise. The following entry shows the purport of March's petition and the order of the Court thereon: —

"Att a General Sessions of the Peace holden at Newbury Sept^r, y^e 26, 1704 . . .

On reading y^e Petition of Lieut Collo: Jno March y^t pursuant to a former Courts Ord^r This Court would order and appoint y^e towns of Newbury and Salisbury to render an account of their Disbursements on y^e Ferry called Marches Ferry over Merrimack River allowing and deducting y^e Profits of y^e Same during such time as they have held y^e same, that so he might know what to pay them, and that y^e s^d Towns of Newbury and Salisbury may be by this Court strictly enjoined not to ply or carry Passengers over s^d Ferry. that

* *Sic.*

† *Essex County Court of Sessions, 1696-1718, p. 136.*

so s^d March may be quiet in the Enjoyment thereof as in and by S^d Petition on file with this Court Records more at large appears. This Court do order and appoint in Consideration whereof, that Capt John Whipple of Ipswich Capt. Bointon of Rowly and Capt David Hazletine of Bradford, go upon the Place, and demand of y^e Select Men of Newbury and Select men of Salisbury and * acc^y of their Disbursements & of their Profits, referring to s^d Ferry as before recited, and that y^e S^d Committee audit said acc^y and lay the same before the Court of general Sessions of y^e Peace to be holden at Salem in Nov^r next together with a report of their proceeding thereon, and that y^e Com^{tee} Send to y^e Select men of each town aforesaid a notification of the time and place of their meeting fourteen Days beforehand that so they may have time to prepare their acc^ys to lay before them as before s^d. — *Ibid.*, p. 140.

Probably at this stage the Carrs renewed their efforts to recover their lost monopoly of the ferriage between Newbury and Salisbury, since, within a year, the claims of Richard Carr were again considered by the town of Salisbury, and the following entry, under date of March 20, 1704-5, indicates that further proceedings in the Court of Sessions were anticipated:—

“Mr. Jarvis Ring & Mr. Philip Greely appointed attorneys for the town to answer And doe what is needfull to bee done in Reference to y^e ferry over merrimack River nere Cap^t Ed Sergents att y^e next sessions to be holden att Ipswich the Last Tuesday in march Current.” — *Town Records*.

No record of further proceedings at the November, term, 1704, on March's petition has been discovered, but on June 26, 1705, the following entry appears:—

“Att a General Sessions of the Peace holden at Salem June y^e 26. 1705 . . .

Whereas y^e matter referring to y^e Ferry at Newbury that leads over merrimack river nigh Cap^t Sarjeants was deferred the hearing thereof to this Court by y^e free consent of y^e Agents of y^e Towns of Newbury & Salisbury, & also of Coll^o March y^e same is further continued till Newbury Court next.” — *Essex County Court of Sessions, 1696-1718, p. 150.*

On the twenty-third of July, 1705, March, “for & in consideration of y^e sum of Two Hundred & forty Pounds of payable & current Money with y^e merchants in y^e Province afores^d to him in hand paid at & before the Ensealing & Delivery hereof by Leiv^t Coll^o Thomas Noyes Esq; Maj^r Dan^l Davison Leiv^t Joseph Little M^r William Titcomb all of Newbury afores^d a Committee for y^e said Town of Newbury & for & in behalfe of the said Town of Newbury . . . Remised Released Confirmed & for Ever Quit Claimed . . . unto y^e said . . . Committee . . . all the Estate Right Title Interest Claim demand w^{ch}soever w^{ch} I y^e said John March now have or which I or my Heirs at any Time hereafter may or ought to have of in or to the ferry comonly Called Marches ferry over merrimack River near the place where Cap^t Edward Serjeant Now Dwells in Newbury afores^d which ferry was first granted by S^r Edmond Andross & Councilll unto y^e said March at a councilll held at y^e Council Chamber in Boston on Tuesday y^e Twenty fifth day of Octobr 1687 as by said act of Councilll may appear & Confirmed & settled upon said March by y^e Justices of y^e County of Essex afores^d y^e 14th of Novemb^r 1687 & again Confirmed unto him at a General Sessions of y^e Peace holden at Ipswich for the County of Essex march 25th 1704 & was Late in y^e Tenure & occupation of Cap^t Edw^d Serjeant afores^d withall & Every the priveledges Rights appurtenances & ways thereunto belonging or any ways appertaining as afores^d Granted To Have To Hold y^e s^d Ferry & all & every the above granted premises & Every part thereof w^{ch} their & Every of their appurtenances unto y^e s^d . . . Committee . . . for the use & Behoofe of y^e s^d Town of Newbury or their assigns for ever so that neither I the said John March nor my heirs nor any other person or persons for me or them or in mine or their Name or names Right title & stead shall or may by any ways or means hereafter have Claim Challenge or Demand my Estate or Interest in or to y^e same premises or any part thereof but from all actions Right Title Estate Interest & Demand of in or to y^e premises & every of them shall & will be utterly Excluded & Debarred for ever by these presents Excepting y^e ferridges of my self & my perticular family & Horses & Cattle of his own over s^d ferry during the term of Twenty Two years from the Day of y^e Date hereof which is to be free without paying any thing therefore. . . .” — *Essex Registry of Deeds for Southern District, book 19, leaf 48.*

This deed, containing a proper covenant of warranty, was acknowledged the next day, and duly recorded.

The above conveyance was ratified by the Court of Sessions, and a provisional arrangement made by which any bond † given by or for the town of Salisbury on account of the ferry was annulled, and the whole income of the ferry assigned to the town of Newbury, as appears by the following record:—

“Att a General Sessions of y^e Peace holden at Newbury September y^e 25. 1705.

Whereas y^e matter referring to y^e Ferry nigh Cap^t Sarjeants at Newbury, at y^e request of y^e Parties concerned viz Agents for y^e towns of Newbury and Salisbury of y^e one part, & Lien^t Coll^o John March of y^e other Part, at y^e Sessions at Salem in June last was referred to this Court y^e Parties having a prospect of an accomodation & good Agreement & forasmuch as its made to appear to this Court, y^t y^e town of Newbury hath agreed w^{*} L^t Coll^o March & bought his right therein, & that y^e Agents for y^e Town of Salisbury neglected and refused to joyn with them in s^d agreement wherefore its considered and Ordered that y^e bond given by y^e Town of Salisbury, or any Persons for Them referring to said Ferry be null and void, & that the town of Newbury or their Agents have y^e Use and income of said Ferry by virtue of said Purchase until further Order it be more fully and amply Settled at y^e next Sessions of y^e Pence.” — *Essex County Court of Sessions, 1696-1718, p. 156.*

* *Sic.*

† The bond in two hundred pounds, as required by the second clause of the order of the Court of Sessions, March 30, 1703.

Whatever the controversy was that was pressed upon the attention of the justices at Ipswich, in March, 1705, it was postponed until November 27, 1705, and then again to the term to be held at Salem the following June. This corresponds, in some particulars, with the case before the General Court, mentioned in the note to resolves, 1705-6, chapter 76, and thus justifies the inference that Carr pursued his claim, first, against the town of Newbury, and, subsequently, against Newbury and Salisbury, as the assignees of his former adversary, March. That he failed in his application to the General Court appears by the note last above mentioned. That the town of Salisbury claimed an interest in, and some control of, the lower ferry is equally evident by the following entry, by which it further appears that Richard Carr was specially advised with by the town committee on the subject of disposing of the ferry, and was probably offered the refusal of it:—

“Att a gen: meeting of The Inhabitants of y^e Town of Salisbury January The: 1th 1705: 6:— . . .

Att The Same meeting it was voated That Those men whose names are hearvnder written are Chosen As A Comunity for to Discorree with Capt Richard Carr or Any other man or men in order for The Disposing of The Lower ferry Euen our wright in sd fery Soe as It may Be for The Good and Benifit of this Town of Salisbury and To make Thare Report vnto the Town of Thaire Doings hearin for Thaire Apr^obation and And * Allowence of The Same att the next town meeting And The men which are Chosen are:

The Aboue Said was voated one The A firmative

Capt Henry True
Lien^t Nathanill Brown
Mr Jacob Morrill

Also Att The Same meeting Theare was a gen: meeting of The Inhabitants of The Towne of Salisbury Appointed To Be the Third Tuesday of february next which will Be The 19th Day of The Afore Sayd month Att 8: of The Clock in The foer Noone att The Hous of Corn^t Jeremiah Allins for The allowanc of Town Delts and The R* for The Re- calling The Report from The Committee which Are appointed in order for The Disposing of ower Part of The Lower ferrey And Also for any other Bvines That The Town Thinck needfull To Be Doone when mett

The Aboue Said was voated one The afirina Tine.” — *Town Records*.

At the general town meeting on the nineteenth of February a proposition by Sargent to run a ferry free to all the inhabitants of the town, upon certain conditions, was accepted by the town, as shown by the following extracts from the town records:—

“To The Inhabittance of The Town of Salsbury now Mett Together february The: 19th: 1705/6

The Proposition of Edward Sargent to The Town of Salsbry Is That if sd Town of Salisbury Be pleased To Pay one Hundred pounds In mony Att fower Payments That is to Say Twenty five pounds per yere That Then your Svbscriber will Enter into Bonds with good Security to ferry ouer forth and Back as well men and horses & Cattle Att all Convenient Seasones ferry free Them The sd Town and Thaire Ayres for Euer: And mainetain All The way from Salsbury to the new ferry: and Also The Bridge nere where John Tappen now lues The Town Svrendering vp All Thaire Rite: In sd ferry The whorf there Begvn now To Be Raised with The ferry Boat Belonging To sd ferry:

EDWARD SARGENT

The Aboue Said Proposition was voated on The Afirmative:

Also Capt Henry True: m^r James Ring: and m^r william Bradbury: were Chosen and Appointed A Comitty To finish The Agreement: made Be Twene Capt Edward Sargent: and The town Abought The Lower ferry And what The Aboue Said men Shall Doe in The Be half of y^e The * town The Town Doth here By Ratifie and Confirm:

The Abou Said is voated one The Afirmative.” — *Ibid*.

On the twenty-seventh of March following the date of the last town meeting, Lieutenant-Colonel Thomas Noyes, Major Daniel Davison, and Captain Henry Sommerby, a committee of the town of Newbury, “Remised released Confirmed and forever quit Claimed,” in behalf of said town, to Edward Sargent and Thomas Moody of said Newbury, “for & in Consideration of y^e Sum of one hundred and Twenty pounds of passable & Current money with y^e Merch^t in y^e province afores^d to them Secured to be paid”† by the grantees, a moiety of the estate conveyed to the town by March in his deed above named.

Having thus succeeded to the whole title and claim of the inhabitants of Salisbury in and to the ferry and its appurtenances, by their acceptance of his proposition, and having succeeded, jointly with Moody, to one-half of March's former right in the ferry,—the whole of which the latter had conveyed to Newbury,—Sargent continued to run the ferry in his own name, and, accordingly, he received on his sole account the legislative grant of this year, and was granted a further allowance the next year for his services to November 28, 1707.‡

The bond which, by the contract between him and the town of Salisbury, Sargent was required to furnish, was dated March 11, 1706-7, and ran as follows:—

“Know all men by these presents y^t we Cap^t Edward Sargent, & Thomas Moodey Both of y^e town of Newbury in y^e County of Essex In y^e Provene of y^e massachusetts bay in Neu england Joyntly & Sevrally Are bounden & fermely Bound to y^e town of Salisbury in y^e County And provenc afore Sd: in one thousand Ponnnd current mony of Sd Provene to be paid to y^e sd towne of Salisbury there heirs Success^or Or Certaine attorny or attornies to y^e w^{ch} payment well and truly To be made we bind our Selves Joyntly & Sevrally our heirs & Each of our heirs Excecet^or administrators for the whole & in y^e anno formely § by these presents Sealed wth our Seals this Eleventh Day of March Anno Domii one Thousand Seven hundred and Six in y^e fifth yere of her majesties Reigne

* *Sic*.

† Essex Registry of Deeds for Southern District, book 29, leaf 231.

‡ Resolves, 1707, chapter 78.

§ *Sic*: firmly.

The Condition of y^e above sd obligation is Suetch y^t where as y^e Towne of Salisbury att a generall towne meeting february y^e Nintenth ^{1705/6} Did Grant to Capt Edward Sargent all there Right In y^e Lower ferry betwene newburry and Salisbury wth y^e whorfe And Boat & one hundred pound to be payd in four year upon Condition y^t y^e sd Edward Sargent or Thomas Moodye there heirs Excecutor Administrator & assines in sd ferry thay & every of them Doe & Shall from time to time forever hereafter & att all times And Seasons Give and performe Dew and redy attendance according to Law to ferry over forth & Back all y^e sd town's present Inhabetants y^t now are or ever after Shalbe for y^e time being Ther horses & Cattle & all other nessesceries ussially transported over ferrys: ferry free w^{thout} Exacting any pay or ferriage mony for the Same & also Shall make repayr & Keep in Good order And Condition att his & there owne Cost & Charge y^e highway Causways & Bridges from y^e now* buring place in Salisbury to sd ferry forever & faythfully performe y^e Same according to y^e True intent & meening of sd towne grant then this obligation to be voyd & of non effect other ways to stand in full force Effect & vertue to y^e true performe of which we have hercunto Sett our hand & Seals this Eleventh Day of March Anno Domii: One thousand Seven hundred & Six, in y^e fifth yeare of her majesties raigne

Sinned, Sealed & Delivered

in y^e presents of us

Witts D. DAVIDSON

WILLM NOYSS

EDWARD SARGENT } (S)

THOMUS MOODY } & Seal

The word one hundred pound to be payd in four yeare Entrr lined befor Sealing.” — *Ibid.*

This bond does not appear to have been accepted until May 14, 1711, — evidently after the last of the four stipulated annual payments had been made by the town. This is the only conceivable explanation of the following entries:—

“Att a meting of The freholders and other Inhabitants of The Town of Salisbury Quaffed As y^e Law Directs upon May the 14th—1711.” — *Ibid.*

“A True Coppie of The Originall obligation which was Delivered To me By Capt True Being one of y^e Comitie To Be Entered In To The Town Book

As Attests

NATHANIELL BROWN

Town Clerk

Essex s.s. Major Daniell Davison and Deacon William noyse Parsonally Appeared Before me the Subscriber and made oath that thay Saw Capt Edward Sargent and M^r Thomas Moodye Signe, Seale, and Deliver this Above written obligation and Thay Signed as wittnis Came Before me July y^e 15th 1711;

JOSEPH WOODBRIDGE Justis of Pease.” — *Ibid.*

Chap. 100. This chapter is from archives, vol. 11, p. 218. It is recorded in council records, vol. VIII., p. 255.

This chapter was based upon the following “address” to the General Court:—

“The humble Address of the Inhabitants of & souldiers Brookfield To his Excellencie Joseph Dudly Esq^r Cap^t Generall in and over her Majesties province of y^e Massachusetts Collony in New England and Governour in Cheife &c. And to her Majesties Honorable Councell And to the Honorable house of Representatives now Assembled in Boston

Humbly sheweth our gratefull acknowledgments to your Honours in that you did so consider our Low condition in so much as your Honours did the year past† Grant a considerable suply of Moneys towards the maintaining a Minister to preach the Gospel to us in this place we now humbly begg the gracious continuance of your Honours goodnes and bounty to us for the insuing year els we shall sterve and pine away for want of that spiritual food with the which throw your Honours Liberality we were the Last year so plentifully fead with. so prays yo^r Honours humble suplicants who subscribe our selves to be att your Honours dispose.

Brookfield.
8^{br} 30th 1706

JNO PERRY
JOHN WHITE
CHRISTOPHER HALL

^{signum}
JOSEPH + BUNDEE

^{signu}
WILL M WILLISTON

SAMUEL TRUMBELL

HENERY PETER

WILLIAM OLD

JAMES CLARK

JOHN ROGERS

BENJ THOMAS

ROBERT GOLDSHERY

SAMLL MINOTT

JOSHUA BARRIUS

SAMUEL SIKES

^{signum}

ISRAELL & BLAKE

DANLL CUMINS

JNO HANDCOCK

ROBERT FFROST
ROBERT EMONS
Souldiers

SAMLL PARTRIDGE
of y^e Comitte

^{signum}
SAMUEL WILLIAMS

SAMLL U OWEN

THOMAS BARNES

PHILIP GOSS

JOHN HAMELTON

JOSEPH BANISTER

BENJAMEN BARTLET

HANREY GILBORD

ERINEZER HAYWARD

THOMAS GILBERT—

THOMAS PARSON

SAMUELL DAVICE

JOHN CLARY

JOHN WOLLCOTT

EDWARD WALLKER

EDWARD KELLOGG

JOSEPH RICE

Inhabitants.” — *Mass.*

Archives, vol. 11, p. 218.

This humble supplication for the means of continuing the “spiritual food” with which the petitioners by the favor of the Assembly had been “so plentifully fed” the preceding

* *Sic*: new.

† *Resolves*, 1705-6, chapter 69.

year, and for the want of which during the year ensuing they would "starve and pine away," was read in the Council and sent to the representatives on the sixth of November. On the eighth, in the House, the resolve which constitutes this chapter was passed thereon and sent to the Council, for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

The order in Council * for the payment of this allowance was passed November 11, 1707, and the province treasurer's account † shows that it was paid.

Chap. 103. This chapter is from council records, vol. VIII., p. 259, and archives, vol. 101, p. 318.

The following is the account referred to in the preamble to this chapter:—

"The Province of the Massachusetts Bay in New England Dr.,

1704/5 March 4	For Cloathing for Prissilla Smart from y ^e 2 ^d Jan ^y 1704/5 to the 12 th day of November 1706	£.2	6	11
1706 Nov: 12	For 97 weeks, meat, drinck, lodging washing & firing for Prissilla Smart from the 2 ^d day of Jan ^y 1704/5 unto the 12 th day of Novemb ^r 1706 at 3/6 p weeke	£16	19	.6
		£19	.6	.5

Errors Excepted

ψ y^e order & in y^e behalfe of y^e overseers of y^e Poore of y^e Towne of Boston

ψ HENRY DERING."

— *Mass. Archives, vol. 101, p. 318.*

This account was read, in the House, November 16, 1706, when the resolve which constitutes this chapter was passed and sent to the Council, for concurrence. On the same day it was concurred in, and consented to by the Governor.

The order in Council ‡ for the payment of this allowance was passed December 18, 1706, and the province treasurer's account § shows that it was paid.

Chap. 104. This chapter is from archives, vol. 101, p. 319. It is recorded in council records, vol. VIII., p. 261.

The order which constitutes this chapter originated in the House and was sent to the Council for concurrence November 2, 1706, whereupon the order was read, "And John Walley & Penn Townsend Esq^{rs} were sent on a Message to y^e House, to propose That a Fund be granted for the said Bills, to accompany the Order," || which was done by resolve chapter 127, *post*. On the nineteenth the order was again read and concurred in by the Council, and consented to by the Governor.

It will be remembered that the last bills of public credit ordered to be printed and signed June 30, 1705, ¶ were not finished until the following November. ** The reasons for the delay appear in the note to chapter 127, *post*.

The names of the committee mentioned are given in chapter 48 of the resolves of 1703-4. The continuation of the proceedings in the third session that led up to the passage of the order which constitutes this chapter was as follows:—

"14th Novemb^r 1706./. In Council /.

Ordered That Elisha Hutchinson, John Foster, E^m Hutchinson Esq^{rs} and the Secretary, Together with such as shall be named by the House of Representatives, and m^r Treasurer, be a Committee to consider of waies and meanes for Supporting the Credit of the publick Bills, and of Methods for the payment of Souldiers and others without the further use of Certificates.—

And that the Committee sit forthwith, at such place as Elisha Hutchinson Esq^r Chairman, shall appoint, And Report their doings to this Court./.

Sent down for Concurrence./.

In the House of Representatives Nov^r 15: 1706

Read & Pass'd a Concurrence. And That Colo Sam^l Checkley, Capt: Will^m Goodhue, M^r Nathaniel Blagrove, M^r Joseph Parsons, Capt: Nathaniel Carey, Capt: Seth Arnold, and Capt Thomas Oliver, be a Committee to Joine in the affair afores^d.

THOMAS OAKES Sp^r

The Committee above named, upon Adviselement with m^r Treasurer, are humbly of Opinion.

That for Supporting the Credit of the Bills, It's necessary this Court do pass an Act, Impowring the Govern^r and Council, in the vacancy of the General Assembly, and until the next Session thereof, as occasion may require, to order any new marke, Stamp, firm or number to be made upon the Bills; Giving publick notice thereof to the Province by a Proclamation.—

That no Certificates or Debentures be further made or given out.—

That all muster Rolls be henceforth made payable to the Commissary General to Enable him and his Sub-Commissary's, to Pay off the Souldiers & Seamen Employed in Her Maj^y Service within this Province.—

* Executive Records of the Council, vol. 4, p. 481.

† *Mass. Archives*, vol. 123, p. 26.

‡ Executive Records of the Council, vol. 4, p. 354.

§ *Mass. Archives*, vol. 122, p. 283.

|| Council Records, vol. VIII., p. 252.

¶ Resolves, 1705-6, chapter 44.

** *Ibid.*, chapter 79.

That the Imprinting of £10000. in New Bills, and the repeating of £10000. of the old, may be sufficient for the present to answer the Publick Charge. —

Which is humbly Submitted.

Boston. 15th Nov^r 1706./.

ELISHA HUTCHINSON

By order of the Comitte

Boston, 18th Nov^r 1706. In Council — Read and accepted.

Sent down for Concurrence./.

Is^a ADDINGTON Sec^y. —

In the House of Representatives Nov^r 18: 1706. Read.

19: . . . Read. & Non-Concurr'd. — *Mass.*

Archives, vol. 101, p. 316.

The Secretary, however, records under date of the sixteenth of November that the above report was "brought in [to the Council] read, & left to further Consideration,"* and he entered the above vote of acceptance, etc., under date of the eighteenth.

See, further, note to chapter 109, *post*.

The following is the record of the order for a warrant on the province treasurer to pay the committee for their service: —

"March 17, 1706-7. An Accompt presented by James Russell Esq^r of the Bill Committee for their charge of Paper and other materials, Imprinting, signing and numbering of fourteen thousand five hundred ninety two Bills of credit on this Province, amounting to ten thousand pounds by order of the General Assembly at their Session in October past, according to the allowance for the last parcel they made, one hundred twenty six pounds, fifteen shillings and six pence, and sixteen pounds, eight shillings & six pence more for engraving a plate, materials and imprinting fifteen hundred sheets of the Escutcheons or stamps of the eight several sorts of the Bills of credit; in the whole one hundred forty three pounds, four shillings was allowed — And.

Advised and Consented. that a Warrant be made out thereon to the Treasrner to pay the above sum of one hundred forty three pounds, four shillings, accordingly, to the s^d Mr Russell for himself and the rest of the Committee." — *Executive Records of the Council*, vol. 4, p. 382.

The province treasurer's account † shows that the above amount was paid.

Chap. 106. This chapter is from council records, vol. VIII., p. 261, and archives, vol. 17, p. 164.

Proceedings upon the petition printed in the note to the resolves of 1705-6, chapter 28, and mentioned in the present chapter seem to have been regularly continued from time to time. The second, or September, session of 1705-6 was fixed for the return required of the judge of probate by chapter 28 before mentioned, but no such paper has been found.

All the unfinished business of that session was continued by chapter 53 of the resolves of 1705-6 to the next (third or October) session. During this session the following answer was filed by the heirs of Jacob Amsden, who, it appears by the memorandum subscribed thereon, were actually in attendance at that session: —

"To His Ex^y = Jos^dndley Esq^r Govern^r — Conncill and Assembly = now sitting —

The answer of Isaac Amsden : nath^l Cutter : thomas phillebroune Jabez broks — & James Lock = brothers = & Representing : the sisters of Jacob Amsden late of Cambridge deceased = and Heirs to ye Estate of our late brother ye said Amsden deced = Beeing notified by this Her magist^r Great & Jenerall Court to make our objections at this sessions = if any be why ye petetion of our sister ye Relect widow of our lost brother Jacob Amsden deced = may not be granted

Humbly shueth =

1^y we the abovesaid bretherin & Heirs were nener informed neither are we sensible of our sisters want of Relefe = & wold hane been glad if need had been to hane shued her brotherly Respect in any sitch way

2^y our sister your petitioner though — she hath administration grantid — yet we who were ye Heirs to ye Estat nener yett Cold be Informed whether she did ener make oath to any Inmentary = & therefore she may as well hane a great deall to spare as to want any thing —

3^y there being not yet any settelment on the Estat we are kept out of our one Rite & if her praier be grantid she may hane her subsistence out of our Ritte & keep her one = and if she shold hane librtty to sell lands she may Receive more then she may liue to spend & it will be hard to com at it againe

4^y = if there were any settelment on ye Estat we hop her one sheare wold be sofichont for her subsistence — & if not we hop we shol not se one so near Relatid to us to want how fner we are very desiaros y^e Estat of our brother might not go from vs to strangers and the seling of a part will be a great Kong to ye Remaining Estate Therefore we the subscribers pray for thes & many other Resons y^e may be giuen that y^e petition of our sister may not be grantid

ISAAC AMSDEN

NATH^l CUTTER

JABEZ BROOKS

THOMAS PHILLEBROWN

JAMES LOCK —

boston november — y^e 9th 1705 =

We y^e sobscribers hane all attended this day & are here personally waiting to be herd if we mitt be admitted." — *Mass. Archives*, vol. 17, p. 165.

No further record of the continuance of this matter, specifically, has been found during the year 1705-6; but as by chapter 106 of the resolves of that year all the unfinished business of the fourth session was continued to the second Wednesday of the first session of 1706-7, and as by chapter 53 passed during that session (July 13, 1706) Susannah Amsden's petition is expressly continued to the second session of this year, it is to be presumed that in the making up the record many years after the original books were de-

* Council Records, vol. VIII., p. 259.

† *Mass. Archives*, vol. 122, p. 275.

stroyed by fire this vote was inadvertently omitted, or not preserved in the minutes. At the session last named the matter, together with other business, was again continued by chapter 64 to the present session.

The petitioner seems to have been in attendance at some, if not all, the times appointed by adjournment. In the first session, she had filed a reply to the answer of the heirs, and with it a certificate signed by two of her neighbors, as given below :—

“To His Excellency Joseph Dudley Esq; Governor and to the Council and Assembly now sitting in Boston July the fifth 1706—

The Reply of Susanna Amsden Relief Widow of Jacob Amsden late of Cambridge deceased to the Answers of Isaac Amsden &c to her petition preferred to this high and Hon^{ble} Court, at their Sessions on the 30th day of May 1705./—

Humbly Sheweth

In the first answer. My Bretheren were pleased to say that they were not Informed, neither sensible of my wants; w^{ch} is I believe true, for their kindness was not so much, as to be willing to be inform'd or sensible of it—though it is evident I was in great want.

In the second, They set forth that they knew not whether I had made oath to the Inventory or not, I answer, that was only because they would not take the pains to see whether I had or not—

In the third place;—They averred that there being not yet any settlement on the Estate, & that I might have my substance out of their rights, & keep my own, I reply, there hath been a settlement as far as was in my power, & If I had of my own, sufficient for my necessary subsistence, I should not now have petitioned this Hon^{ble} Court for this Liberty—

As to the fourth Whereas they say that if there were any settlement on the Estate, that my share would be sufficient for me; I leave the whole to the Jndgm^t of this Hon^{ble} Court, there being but about fifty shillings Income; of the whole & my self, being a very sick & Weakly Woman

Therefore I pray that my Petition may be Granted, the Estate not coming by heirship but gotten by us since our marriage

And I yor Petition^r as in Duty bound shall ever pray &c^a

SUSANNA AMSDEN.”—*Ibid.*,

p. 161.

“We the subscribers (being near neighbours to Jacob Amsden late of Cam^r: Deceased & well acquainted wth: his affairs) Do know y^t: y^e: whole of the Real Estate w^{ch} he dyed seiz^d: of & is now in y^e: hands of his Widow, was purchased by them after their marriage together: And y^t: y^e: whole of y^e: Estate which said Amsden left, is Insufficient for y^e: maintainance of his s^d: widow, unless she have power to make sale s^ale * of y^e: Real Estate, she being under bodily Infirmity & in present want of releife

JOHN HASTINGS

SOLOMON PRENTIS SEN.”—*Ibid.*,

p. 162.

The order which constitutes this chapter, as well as the order of the House, dated June 19, 1705, and the order substituted for the latter by the Council and which constitutes chapter 28 of the resolves of 1705-6, were successively written upon the same leaf as the petition which is given in the note to the chapter last named.

The present order was passed in the Council on the nineteenth of November and sent to the House, for concurrence. It was concurred in on the twenty-first, and consented to by the Governor.

On the twenty-fifth of February, 1706-7, Susannah Amsden of Cambridge, “widow woman,” in consideration of fifteen pounds, conveyed by warranty deed † to John Wellington of the same town, yeoman, “Three acres and three quarters of an acre of Swamp Land Situate lying and being within the Limits and bounds of the abovesd Town and County, and is butt^d & bounded Easterly wth the Land of M^r John Whiteing, Northerly wth the Land of y^e abovesd John Wellington Westerly wth the Town highway and Southerly wth the Land of Andrew Belcher Esq;,” she covenanting that she was seized in her own right and in fee of the estate, and making no allusion to the authority to sell conferred by the Legislature.

Mrs. Amsden died testate the next October, ‡ her will, bearing date the fourteenth, being admitted to probate the twentieth of that month. Her estate was appraised at £51 19s. 1d., and no real estate is included therein nor mentioned in the will.

On the thirtieth of October, by a decree of the judge of probate, one-half of the remaining personal estate of Jacob Amsden was given to the executors of his widow, “He having left no Children,” and the other half was ordered to be divided “Equally to and amongst the next of kin in Equal degree &c.” The real estate was assigned to Isaac Amsden, “Intire, he being the Onely Brother of the s^d dec^d of the whole blood, and so next of Kin Inheritable.” §

Chap. 107. This chapter is from archives, vol. 71, p. 272. It is recorded in council records, vol. VIII., p. 262.

The particulars of the departure of the brigantine Hope, in which Samuel Appleton proceeded to Quebec as commissioner to bring back the English captives in Canada, are given in the note to chapter 67, *ante*. The Hope returned to Boston on Thursday, the twenty-first of November. Of her arrival the following notice appeared in the News-Letter of the twenty-fifth of November:—

“[Boston] On *Thursday* the 20th Currant arrived here Capt. *Samuel Appleton* Esq. Commissioner sent by His Excellency our Governour a Flag of Truce to Canada for the Exchanging of Prisoners, who has brought with him in the Briganteen *Hope*, whereof

* *Sic*.

† Recorded in Middlesex Registry of Deeds for Southern District, book 14, p. 463.

‡ The sixteenth, according to Doctor Paige. — History of Cambridge, p. 450.

§ Middlesex Registry of Probate, vol. 11, p. 219.

John Bonner is Master, 57 of ours, of whom is the Reverend Mr. *John Williams*, Pastor of *Deerfield* and his Two Sons. They left *Canada* the 29th of *October*. These were all that could then be got ready, and the rest are expected in the Spring." — *No. 136.*

The date given in the News-Letter is clearly wrong, since Thursday was the twenty-first; and the latter date corresponds with the following entry in the council records:—

"Nov. 21, 1706. Sammel Appleton Esq^r return'd this Day from Quebec with the English Prisoners, who were sent for up to the Court." — *Vol. VIII., p. 262.*

Among the captives who returned in the *Hope* was the Rev. John Williams, the minister of *Deerfield* — the personage in whom the interest of the whole community was centred. An account of the attack on *Deerfield* in which he was made prisoner is given in the note to resolve, 1704-5, chapter 6, and he has frequently been mentioned elsewhere in connection with the ministry in that town, and the negotiations between the authorities of *Massachusetts* and *Canada* concerning a treaty of peace or for the exchange of prisoners.

The attentions that were shown him upon his return strikingly illustrate the deference and respect, approaching to reverence, which the people of New England habitually paid to the clergy, even after confidence in the doctrines expounded from the pulpit had been shaken by the connection of some of the leading ministers with the witchcraft delusion.

The following items from *Sewall's Diary* afford glimpses of the courtesies he received during his stay in Boston before his return to the scene of his former labors, which was on the twenty-eighth of December:—

"Dec^r 3. [1706. . . . Cotton Mather] tells me Mr. Williams is to preach the Lecture." — *Vol. II., p. 172.*

"Dec^r 5th Mr. John Williams Preach'd the Lecture."* — *Ibid., p. 173.*

"Dec^r 7. 1706. . . . I invited the Gov^r to dine at *Holms's*. There were the Gov^r, Col. Townsend, Bromfield, Leverett, Williams, Capt. Wells, Sheldon, Hook, Sewall." — *Ibid.*

"Dec^r 20, *feria sexta*, . . . Came home to the Meeting at Mr. Bromfield's, Mr. Williams of *Deerfield* preach'd." — *Ibid., p. 174.*

He was again in Boston in March, 1706-7, probably supervising the printers at work on his *Redeemed Captive*.† During this time he was more than once entertained by *Sewall*,‡ — the last time in company with the Governor and Captain Sammel Appleton.

See chapter 126, *post*, and note.

Chap. 109. This chapter is from council records, vol. VIII., p. 265. It is preserved in archives, vol. 101, p. 320.

When the House on the nineteenth of November voted a nonconurrence in the vote of the Council upon the report of the joint committee on ways and means, as shown in the note to chapter 104, *ante*, they passed and sent to the Council the following order:—

"Ordered That a Bill be drawn That Debentures, Passe again as formerly they have done, in the room of Certificates, untill the end of the Session, of this Court in may next." — *Mass. Archives, vol. 101, p. 317.*

This order was read and debated in the Council on the twentieth, and read again on the twenty-first, when it was "put to the vote and not concurred."

The attempt to avoid the need of increasing the issue of paper money, by reviving the use of debentures, having thus failed, the Council, on the twenty-sixth, passed and sent to the House for concurrence the first draught of the order which constitutes the present chapter. The House immediately concurred in this draught with two amendments, which were agreed to by the Council, and the order thus amended was consented to by the Governor.

The item in the province treasurer's account referred to in the note to chapter 104, *ante*, includes a charge "for s^e Escutcheon to prevent fraud."

Chap. 110. This chapter is from council records, vol. VIII., p. 265, and archives, vol. 1, p. 67.

John Bridger, who came over with *Bellomont* in the capacity of Purveyor of Naval Stores, etc., § received from Queen Anne a new commission, constituting him surveyor-

* A copy of the very scarce first impression of this sermon in the Library of Harvard College, bound up in one book with the first impression of Williams's *Redeemed Captive*, has been generously entrusted to the Editor for reference. The title-page of the sermon as printed (the text of which is Luke viii., 39, and the running title, "Signal Favours to be Publish'd For the Praise of God the Giver") is as follows:—

"Reports of Divine Kindness; or, Remarkable Mercies [Should be Faithfully Published.] For the Praise of [GOD] the Giver; [Set forth in a SERMON Preached at] Boston Lecture, Decemb. 5. 1706; [By John Williams,] Pastor of the Church of CHRIST in *Deerfield*; [Soon after his Return from a doleful Captivity.]

Psal. 107. 13, 14, 15, 32. He saved them out of their distresses. He brought them out of darkness, and the shadow [of death; and brake their bands in sunder. O that men [would praise the Lord for his goodness; and for his won-derful works to the Children of men. . . . Let them exalt [him also in the Congregation of the People, and Praise [him in the Assembly of the Elders.]

Psal. 34. 3. O magnifie the Lord with me, and let us exalt his Name together.]

Boston: Printed for S. Phillips, at the Brick Shop, 1707."

† The dedicatory epistle to Governor Dudley is dated March 3, 1706-7.

‡ "Feria Septima, Martij 8^o 1707. . . . In the Afternoon Mr. Williams visits us, tells me he goes to *Deerfield* 14 nights hence, next Tuesday. I gave him a copy of the forementioned verses. He tells me Quebec Seminary was burnt the 20th of 7; 1705. our Style, Library burnt. His Narrative is now in the Press." — *Diary, vol. II., p. 181.*

"March, 21. The Governour, Capt. Sam^l Appleton, Mr. J^{no} Williams, Mr. William Williams, dine with us in the new Hall." — *Ibid.*

This was on the day after the lecture in Boston at which Rev. Benjamin Colman preached a sermon before the General Court.

§ See Province Laws, vol. VII., p. 587.

general of the queen's woods in all her plantations on the continent of America. The full text of this commission, an abstract of which is printed in the Provincial Papers of New Hampshire,* is given below:—

“ANNE R

Anne by the Grace of God Queen of England Scotland France and Ireland, defender of the faith &c: To all to whome these presents shall Come Greeting. Whereas an Act of parliament passed in the third year of our Reigne for Encouraging the Importation of Naval Stores from our plantations in America. And whereas our Commissioners of Trade and plantations by their Report unto us, upon a petition of Several Merchants and Traders to New England praying that wee would be pleased to send thither some proper person (well Skilled in the making of Tarr, Raising and Curing of Hemp And all other Naval Stores to direct and Instruct the Inhabitants of those parts in the best methods of producing and working of those Commodities have humbly Represented that they think it may very much tend to the Encouragement and promoting the production of Naval Stores in the plantations and may render the Act of parliament in that behalfe more Effectual, That a Surveyor General should be appointed of all our Woods in our plantations on the Continent of America—(that place being Now Vacant) with such powers and Instructions for preserving the Woods from Spoyle as should be thought fitt And with directions to Informe and Instruct the Inhabitants in New England, and Colonies Adjacent in the best Method of making and Improving Tarr, and other Naval Stores, and have therein proposed our Trusty and well beloved John Bridger Esquire (who as they our Said Commissioners have Certified has been already many yeares in those parts in Reference to Naval Stores and has acquired Good Experience and Skill in those matters) as a fitt person to be Commissioned by us in this Service at a Salary not Exceeding two hundred pounds P Annua. Wee having taken the premisses into our Royal Consideration and Judging it to be of Great advantage to our Service, That all our Dominions be furnished with masts pitch, Tarr Hemp and all other Naval Stores from our Said Colonies and plantations. Know Yee that wee Reposeing Especial Trust and Confidence in the Skill Diligence and Integrity of the Said John Bridger in and for the Execution and performances of the Several Services abovementioned and for other good Causes and Considerations us hereunto moving of our Special Grace certaine Knowledge and Meer motion Have Nominated, Constituted, and appointed, and doe hereby Nominate, Constitute and appointe him the Said John Bridger to be Surveyor General of all and Singular our Woods within our plantations in the Continent of America now growing or being or which hereafter shall or may Grow and be within our Said Colonies & plantations, or any of them, and wee doe hereby direct Authorize and require, him the said John Bridger to Instruct our loving Subjects within our Said Colonies in making pitch and Tarr, Raising and Curing of Hemp, And in all other Matters relating to the production and Manufacturing of Naval Stores there To hold Execute and performe the said Office of Surveyor General and other the Services abovementioned by himselfe or his Sufficient Deputy or Deputies for and Dureing our pleasure. And for the Encouragement of him the Said John Bridger, diligently and faithfully to intend attend, and Execute the said Services wee have thought fitt to Grant and Allow Unto him the said John Bridger a Salary or yearly sume of Two hundred pounds of Lawfull Mony of England to be paid to him or his Assignes by the Treasurer of our Navy for the time being Upon bills for the Same to be first made forth and Signed by the Commissioners of our Navy for the time being or any three or more of them, who are hereby directed and Authorized to make forth and Signe the Said bills from time to time accordingly. The Said Salary to Commence from the twenty fourth day of December in the yeare of our Lord Seaventeen hundred and five, And to be Received Quarterly to witt at Lady Day, Middsummer, Michaelmas and Christmas by Equal portions. And the first payment to be made thereupon at Lady day now next ensuing. And wee doe hereby declare that these presents or the Entry or Enrolment thereof with the Commissioners and Treasurer of our Navy and alsoe with the Auditors of our Impress shall be as well to the said Commissioners of the Navy for the making out the said Bills, as to the Treasurer for payment. And to the said Auditor of Impress for Allowing thereof from time to time upon Accompt a Sufficient warrant. And wee doe hereby Authorize and require him the said John Bridger his Deputy or Deputies and every of them, at all Convenient times and Seasons in the yeare to View and Survey all our said Woods and Timber, And alsoe to Mark Such of the Said Trees that now are or hereafter shall be fitt and proper to be taken for the use of our Navy And to Keep a Register of the Same transmitting halfe yearly or oftner an Account of his proceedings herein to our High Admirall or Commissioners for Executing the office of High Admirall for the time being to Our High Treasurer or Commissioners of our Treasury for the time being. To one of our principal Secretaries of State and to our Commissioner's of Trade and plantations. As alsoe to observe and follow as well Such Orders and directions as wee have already Signed in this behalfe as Such others as he shall from time to time receive from us or from our Said High Admirall, or Commissioners for Executing the office of High Admirall for the time being, Our high Treasurer or Commissioners of our Treasury for the time being, from either our principal Secretaries of State or from our Commissioners of Trade & plantations Lastly wee will and require all our Governours, Lieut Governours Justices of the peace, Constables, And all other our Civill officers within our Said Colonies and plantations in America to be aiding and Assisting promoting and Encouraging to the Said John Bridger his Deputy or Deputies in the due Execution of his and their Duty in all the matters aforementioned, as they will Answer the Contrary. Given at our Court at Saint James the Twenty fourth day of December 1705: In the fourth yeare of our Reigne./

By her Majesties Command

GODOLPHIN

18th october 1706 *Vera Copia* Exam^d with the Original

P CHA: STORV Secretary.” — “*Commissions,*” etc., in the *office of the Secretary of State of New Hampshire.*

* Vol. III., pp. 334, 335.

Bridger's assumption of his new duties, and the rumor of his intention to settle in New London, had been heralded to Fitz-John Winthrop by the agent of Connecticut in London in the following letter:—

"For the Honour^{ble} John Winthrop Esq^r, Gouverneur of Connecticut, at New London in that Colony.

LOND: the first June 1706.

MUCH HONOR^d SE, — I hope my packetts of the 21 of the last you have. This is only a short letter to tel you one Bridger is coming to live with you, on pretence of making naval stores. I have no good carracter of him. He is a frind of yo^r enemies, hath spoken for those Indians, and against yo^r charter. I hear hee intends to settle at New London. I thought itt my duty to give you this hint of itt, and you may have another letter from mee befor the shippis goe. I am every day at court, attending yo^r concerns. Remember mee to all my frinds.

Yo^r sincere frind & servt,

HEN. ASHHURST." — *Win-*

throp Papers, part V., p. 328.

His commission was read before the council of New Hampshire as early as October 16, 1706,* and two days later he presented to that board a memorial similar to, but shorter than the memorial referred to in this chapter. It ran as follows:—

"The memorial of John Bridger, Esq., was read at this Board, in hæc verba:

To his Excellency Joseph Dudley, Esq., Capt. General and Governour in Chiefe of her Majesty's colonies of the Massachusetts Bay and New Hampshire, and to the Council and General Assembly of New Hampshire:

The memorial of John Bridger, Surveyor General of all her Majesty's woods, on the Continent of America,
Sheweth:—

That whereas her Majesty has been most graciously pleased by Her Commission to me granted and instructions commanded, to preserve and keep as much as in me lies, all her Majesty's woods from spoil and waste that shall or may be made for the future, by any of the inhabitants of her Majesty's colonies in America, pursuant to a clause in the charter of the Massachusetts Bay, which reserves all trees to her Majesty's use of twenty four inches diameter at twelve inches from the ground and upwards, from being cut, felled or destroyed, on the penalty or forfeiture of one hundred pounds to her Majesty, her heirs and successors, for every such tree cut, felled or destroyed, without her Royal license first had and obtained for the same:

And whereas there have been complaint made unto her Majesty of the spoil and waste made in her Majesty's woods:—I therefore in her Majesty's name, and by the authority to me granted, do for the time to come forbid all her Majesty's subjects to cut, fell or destroy any of the trees reserved as aforesaid, And do hereby request of his Excellency, &c., that he would be pleased to move and recommend the same to the Gentlemen of the Assembly; that they give notice accordingly to the inhabitants of their respective Counties or Towns, particularly to those whose livelihood chiefly consists in Logging and working in the woods, that they be very careful what Trees they fell in logging, &c.; especially those in the upper towns and Rivers adjacent; which trees if preserved would much lessen the charge her Majesty is now at in masting her royal Navy.

And I do hereby promise for my own part, that I will by no means or ways whatsoever restrain or hinder any of her Majesty's Loving subjects from all lawful freedom, but will on all occasions and at all times, be ready and willing to be aiding and assisting to them or any of them, to the utmost of my power when the same shall be desired." — *Provincial Papers of New Hampshire, vol. III., pp. 336, 337.*

Bridger's memorial, referred to in the preamble to this chapter, was as follows:—

"To his Excellency Joseph Dudley Esq^r Captin Generall, and Comander in Chiefe of Her Majesties Province of the Massachusetts Bay in New England, to the Council and Generall Assembly: /

The memorial of John Bridger Surneyor Generall of all her Majesties woods in America
Sheweth

That whereas her majestie has most gratiously been pleased by her Commission, and Instructions to me granted, & there by appointing me Surveyor generall of all her majty's woods in America, and to instruct the Inhabitants of her majty's Dominions & Provinces, in the best way of raising naval stores, her majty has been pleased to Encourage the same by an Act of Parliament, and Commands me to move your Excellency council and assembly to the making such laws as shall most promote this great designe, of being supply'd with naval stores from those Provinces, which her majestie and Kingdom have a great Dependence on, wch i presume is fully proved, by there passing the late act of parliament. (before which) I had the Honour to be consulted and advised wth and did nominate, such rewards, as I thought would give life and Encouragment enough to put this designe into Execution, which was approned of, and Pas't wthout amendment, and are such as I hope have mett wth your good liking in all respects

It now Lyes wth your Excellency and the Honourble Conncil, and generall Assembly, Not only to Execute those good laws you have already made, which tends much to the promoting of this great undertaking, but likewise to pass such other laws wch you shall think

* The record of the action of the Council thereupon is as follows:—

"[Oct. 16, 1706.] Mr. Bridger's commission was read as surveyor of her Majesty's woods, &c., and the Governour acquainted the Council that from letters from the Rt Honble the Lords Comms of trade and plantations, he was commanded to be assisting to the said surveyor, and to put forward the . . . after which Mr. Bridger's memorial was read, and ordered to be sent down to the Representatives. And the secretary was further advised on Friday, to lay before the Assembly the present Laws for the securities of Great Timber, that the Surveyor may further propose what is necessary for her Majesty's service in putting forward naval stores." — *Provincial Papers of New Hampshire, vol. III., p. 333.*

will be most for the benefit and promotion of this Designe, and thereby fully answer her majty's and nations Expectations, of being hence supply'd with naval stores./

This designe once perfected will take of that Dependence we now lye under to forreigne Princes, and turn the trade and navigation of England to those provinces, the advantages are so many, and so great, that would accrue to this Province, by such a turn of Trade, that I have not here room to mention a tenth part of them, but this I m[ay] * with truth say it will not only make constant and good returns, but he a means to keepe all money brought hither, that together with your own labour, and Industrie, will Enable you to keepe the balance of trade in your own Power

For the contrey will ever be capable of constant supplies of naual stores if the Laws are duly Executed which preserves the tar trees, and that which regard^s the Quality, and Quantity, of naval stores here to be raised./

For tis of the greatest consequence and of absolute necessity, that all stores be clean, free from Dirt, Dross, sand, Leaues, stones &c^a, the Hemp well Cured, sound, bright, water Retted, and marchantable, Barr^{ls} full gage, which faults if mended will retrieve the lost reputation this Province lyes under, and if not timely prevented will I feare prove fatal to this designe

I saw in London a Barrell of Entire sand ship't hence in Lien of Tirpentine, and is now return'd by Capt Pitts, and may be seen to the great scandal of trade and its reputation, What the Effects of such Dealing must be I humbly leave to your Excellency &c^a to Judge of

Tirpentine I have seen a quantity in London wch was not one 3⁴ part Tirpentine but Dross sand &c^a Tarr is generally made with notts which has a tirey quality in it and so, not fit for Cordage, and is generally full of water on the top of the barr^l and at Bottom, Dirt, Dross, stones, sand, &c^a wch I hope will be prevented by the Laws already pass'd/ and here take leave to Informe the Gent^{le} of the Assembly that for the future all Pitch pine trees Designe for Tar, be first Prepared in this manner. Barke the tree so as to Leane room belowe to fell the tree and 6 foot up at least and on that side where there is most Limbs, Leane on the barke six inches broad at least (when the sapp is fully up prepare the tree) and (let none be so prepared but what are 12 inches Diameter at 3 foot from the Earth, vnder the penalty of 5 pounds as the Law Directs wch was passed in England for Inouraging the Importation of naual stores from her majty's own plantations.) the tree to stand 2 years at least so Prepared And would pray that you Informe the People of the severall Counties wch you represent of the same, and if this Direction be not perfectly vnderstood by any I am Every Day ready to attend any Gentleman or a Committe of the Generall Assembly to Informe them fully in this, or any thing I am Capable of relating to y^e Raising of naval stores./ Or will come to any that will send for me./

Then as to Tirpentine I would for the preservation of the tarr tree forbid any person whatsoever to box any tree in more places then one, for the vsuall way is to box 4 sides together wch kills ye tree in one year, wch otherways would continue to yield Tirpentine 4 or 5 years, and then Let alone as many years, would make Tar at last./

As to the making of Barrells for naual stores, I would that they be [*] with Pitch, or white Pine, that wood not admitting the tarr to Dreig[n] * as oake staves do, (besides twould saue a great Quantity of Oake tim[ber] * wch in my Opinion will be of great service to this Countrey, for no[w] in * some places tis very scarce) (but as to that part I shall say no mor[e] *)

Then as to the make or forme of those barrells, I propose that the staves be of sound, good, Pine, not old, nor Worme Eaten, the staves to be at least Inch & halfe thick when Wrought, for the barrell should have no Bulge, but less at the bung then any where els and there the hoops to be Look't, and Drone to Each head, then your Barrell would stoe better, nor need you fear any barrells being staued into Each other by weight, for this way all the straine would lye on the head wch is the strongest part, so that no tarr would come to the pumpe, nor your shipp in danger, wch is imposible to prevent (the Common way now used the barrells are so thin that a Quantity would Bulge one another to the great hazard of Life and goods)

Then I would aduise that no Pitch be sent home, for in the first place the reward is the same to tarr, as to Pitch; 2^{dy} the Labour together wch [*] not answer to the Difference in value, and 3^{dy} the kingdom of England will be much better pleased to haue the manufacturing of it tho; It cost them thrice the value./

And as I am willing In all things that tends to the furthering this great worke so I would do all that is in my power to make the last addition thereto, and shall think no service to Difficult, or Labour to hard, for me to Do, wherein I may be thought seruisable to this Colony, and whereas there is an Act, pas't wch appointes a surveyor to Inspect both caske, and Comodity, on whose Judgment, Integrity, and probation, the Comodity is marchantable or not, and so must stand or fall in England. I take leave to Offer my service, and if it shall be thought I can be seruisable in that affaire I promise to Do my vtmost Endeavours therein/

and Lastly pray leave to add that as I am one no way concerned or Intrested in any thing that I have here offered but what pointes at the publick good of this prouince and all her majesties Loving subjects (so I pray it may be taken) and Doe believe if this Designe be heartily carried on by a vnanius consent, it cannot faile of making this Province (not only) a favorite of her majestie and kingdoms, but a flourishing and Wealthy people, humbly submitting what I haue here say'd and proposed to your Excellency council & assembly; to Enact or otherwise, as you In you[r] * Wisdoms, shall see most Convenient." — *Mass. Archives*, vol. 1, p. 64.

This memorial was read in Council November 22, 1706, and sent to the representatives "for consideration." It was read in the House on the twenty-third, and again on the twenty-sixth, when the order which constitutes this chapter was passed and sent to the Council, for concurrence, where it was immediately read and concurred in, and consented to by the Governor.

In compliance with the request of the General Court in this chapter Bridger prepared an essay which was printed as a broadside, a copy whereof, accompanied by two paragraphs of an act* of parliament about preservation of timber, is bound up in the New York Historical Society's collection of News-Letters, between numbers one hundred seventy-three and one hundred seventy-four, as follows:—

"INFORMATIONS

AND DIRECTIONS

I. For the making of TAR, and choice of Trees for the same, as in *Finland*, &c
AS for Trees, Take none that have any dead branches on the Top; that being a certain Indication of the decay of that Tree; but those that are flourishing, full of Limbs: Tall Trees seldom produce much Tar. In *May, June, July* or *August*, the Tar Tree may be prepared, but if the Sap be all up in the Tree, then prepare the Tree, be it in any Month; but the Spring wholly governs this, for as in different Climates the Spring is more late or early: So here, some Springs are sooner some years than others. This must be your guide as to the Time when to prepare the Tree; the Manner is as follows, *Viz.*

II. Two foot from the Earth strip off the bark eight foot up; only leave the bark on a hands breadth upon that side that has most Limbs: Thus the Tree must stand Two years; the Third, cut it down; and in the middle, which will make proper lengths for the Pit; split it into pieces four inches square, or there-about: Prepare no Trees less than Twelve inches Diameter.

III. As to making the Kill'n, or rather Pit: 'Tis thus, Eight foot deep, Twenty wide at the Top, so sloping towards the bottom; there the spout must be fix'd for carrying the Tar to the Barrel-bung: and Sleepers must be lay'd cross the bottom to lay the Wood on, and to raise the Wood as soon as possible end-ways, that being the natural way of the Pores, the Turpentine will sooner be forced out of the Tar-Wood with less heat: The Tar-Wood may be raised Seven foot above the Earth; and there must be great care taken in covering it, for if the Air get to the Fire, 'twill blow all up, and burn the Tar: It must be covered with Turff and Sand very close; and then with thin Splinters of Tar-Wood set on Fire, put it into the Pit, which will set it on Fire: Such a Pit is three days in burning, generally.

IV. In *Vasa* in the same Province, though some Difference, yet not much, they use another way, and in my Opinion the best; where their Clay ground, near the Pitch-Pine tracts: 'Tis thus, In the Spring they bark one part of the Tree, the next another part, and so on till four years are expired, then they cut down the Tree: And the Pit is made eight foot, at the bottom, broad, Fifty or Sixty foot at the Top. All round the in-side they lay white Pine bark, to keep the Tar from running into the Earth, when burning: They as well judge 'tis less waste and much better, to set the Tar-Wood End-ways in the Pit, which I much like and approve of; and likewise the making of the Pit, but (not this way of preparing the Tree) therefore advise to the former, or your own way: and if any Knots, mix them with the other Wood, but not alone, they making the Tar of so fiery a nature that it burns all Cordage that is made with it.

V. As to Draining the Water from the Tar, they do it in the Barrel, the Water always is uppermost; and may with ease, if care be taken, take off the only Objection that is made in *England*, which is Water in the Tar. And if after the cost and labour of making the Barrels & Tar, the Sale in *England* should be lost for want of Dreining off the Water, I hope none will plead Ignorance for the future; and that there be no Sand, Leaves, Dross, or anything but pure Tar, which will in some measure regain a Reputation, which at present this Tar, Pitch and Turpentine has lost, to the great Scandal of Trade, and this Province in general.

VI. I would advise to make all Barrels with Pine-Staves, one inch and half thick at least, when wrought: the bulge to be the least part of the Barrel, the Hoops to be locked there, and drove to each head: this will stow in less room, is much stronger and sooner made: For I would not have any unnecessary work on the Barrel; as the smoothness of the inside, neither need the out-side be made only fit for the Well-Hooping of the Barrel: this would save much Labour (and the end as well answered) which I have in all these Directions endeavoured at; and are the best methods I can advise to be followed here, where Labour is so much wanted: All which is Submitted to by

J. BRIDGER.

Surveyer Gen. of all Her
 Majesties Woods &c. in America

Two Paragraph's of an Act of Parliament, Pass'd in the Third and Fourth Years of Her Majesties Reign, Entituled, An Act for Encouraging the Importation of Naval-Stores from Her Majesties Plantations in America.

Viz.

And for the better Preservation of all Timber fit for the Uses aforesaid, Be it further Enacted and Ordained by the Authority aforesaid. That no Person or Persons within Her Majesties Colonies of *New-Hampshire, the Massachusetts-Bay, Rhode-Island, and Providence-Plantation, the Narraganset-Country, or Kings-Province, and Connecticut in New-England, and New-York, and New-Jersey*, do or shall presume to Cut, Fell or Destroy any Pitch-Pine-Trees, or Tar-Trees, not being within any Fence, or actual Inclosure, under the Growth of Twelve Inches Diameter, at three Foot from the Earth, on the Penalty or Forfeiture of Five Pounds for each Offence; on Proof thereof to be made by One or more Credible Witnesses, on Oath before One or more Justice or Justices of the Peace, within or nearest to such Place where such Offence shall be committed; One Moiety of such Penalty or Forfeiture to be to Her Majesty, Her Heirs and Successors, the other Moiety to the Informer or Informers

And be it further Enacted by the Authority aforesaid, That no Person or Persons within the said Colonies of *New Hampshire*, the *Massachusetts-Bay*, *Rhode-Island*, and *Province-Plantation*, the *Narraganset-Country*, or *Kings-Province*, *Connecticut* in *New-England*, and *New-York* and *New-Jersey*, shall wittingly or willingly set Fire to any Woods or Forest, in which there are any Pitch-Pine-Trees, or Tar-Trees, Prepared for the Making of Pitch or Tar, without first giving Notice to the Person or Persons, Owner or Owners of the said Trees, who had Prepared or Ordered the Preparing of such Trees; or to One of Her Majesties Justices of the Peace there, on Pain of Forfeiting of *Ten Pounds* for each Offence, to be Recovered in such Manner, and on such Proof, and to be Distributed, as aforesaid; The said Forfeitures and Penalties to be Levied by Warrant, under the Hands and Seals of such Justice or Justices of the Peace.

Boston in New-England, Printed by *B. Green, July, 1707.*"

Some time later, "A Bill was offered & Read, For the better Providing & Furnishing Masts for her Majesties Royal Navy," † but failed to pass.

See, further, the vote of June 30, 1718, in the resolves of that year.

Chap. 111. This chapter is from council records, vol. VIII., p. 267, and archives, vol. 63, p. 77.

Russell's certificate was as follows:—

"Province of Massachusetts. Boston ye 26th Nouembr 1706 =

To his Excell The Governo^r ye Hon^d Council & Rep^sentatives

I haueing bin Ordered and Impowred to himr and Improne Waiters for her Maies^{ty} Service to preuent frauds & Abuses in the Duties of Impost; Haue Imployed Daniell Larrance of Charlstowne Since the first of May at Sundry times As there has bin Occasion; So that I iudge he ought to be Allowed at least Three months pay,

I Also haue Improned James Wood of Boston Since the Twenty Sixth of Augnst last for w^{ch} Time I desire he may be paid with an Addition of half A Month more, and That the Treasurer be ordered to pay what the bond Court shall Allow; vnto me for their service; and I shall take their discharges and get what service is reasonable before they be dischargd for ye winter I Also request y^t m^r Mathew Cary may be paid his Arrears w^{ch} is One Month & fower dayes which will Oblidge

Yo^r humble serut.

JA. RUSSELL Comm^r.—*Mass.*

Archives, vol. 63, p. 77.

This certificate was read in the House November 30, 1706, and on the same day the resolve which constitutes this chapter passed through all its stages in both branches, and was consented to by the Governor.

The order in Council for a warrant to pay the amount granted by this resolve is as follows:—

"Dec. 18, 1706. To James Russell Esq^re Commissioner for Impost, for the service of Daniel Lawrence of Charlestown and James Wood of Boston, as Waiters at the Impost Office, after the rate of Forty shillings p Month each, the first at sundry times, from the first of May last, three Months, the latter from the twenty sixth of August; and Matthew Carey one Month four days."—*Executive Records of the Council*, vol. 4, p. 354.

The sum paid on this warrant is included in the item in the province treasurer's account ‡ referred to in the note to chapter 41, *ante*.

Chap. 112. This chapter is from council records, vol. VIII., p. 267. It is preserved in archives, vol. 62, p. 527.

The resolve which constitutes this chapter was passed upon the following petition:—

"To His Excellcy Joseph Dudley Esq^r Capt^l Gener^l & Gover^r in Cheife in & over the Province of the Massach^{ts} Bay &c. And to the Hono^{ble} Council of the s^d Province & Hono^{ble} House of Representatives Convinced \S in Gener^l Assembly —

The Humble Petition of Samuell Wakefield of Salem Waiter

Humbly Sheweth —

That Yo^r Pettr being Impowred by an Order from His Excellcy Dated the flirst Day of Aprill 1703. To be a Waiter & Officer vnder the Commiss^{rs} Appointed for the Collecting & Receiueing of the Additionall Duties of Impost & Excise Granted to Her Majty has ever since that time Continued in s^d service & hath Received No Pay or satisfaction for the s^d service since September 1704

Therefore Humbly pray Yo^r Excellcy and This Hono^{ble} Court to take the Premisses into Consideration & to order Yo^r Pettr^s Paym^t As Yo^r Excellcy & Honor^{ble} Court shall think fitt —

And Yo^r Pettr^s shall ever pray &c

SAMLL WAKFIELD.—*Mass.*

Archives, vol. 62, p. 527.

This petition was read in the House June 25, 1706. It was read again on the twenty-second of November and committed, the following certificate having been filed in the mean time:—

"These may Certifie That m^r Sam^l Wakefield hath served as Waiter in ye impost att Salem in ye Countye of Essex, to the 20th of Octobr, 1705 Seaventeen hundred & five.

Salem Nouembr, 20th 1706

BENJA. GERRISH Dy Reciever."—*Ibid.*,

p. 528.

* *Sic*: Providence.

† Council Records, vol. VIII., p. 357: June 2, 1703.

‡ *Mass. Archives*, vol. 122, p. 276.

§ *Sic*: conuened.

On the twenty-ninth the resolve was read and sent to the Council, for concurrence. On the thirtieth it was read and concurred in, and consented to by the Governor.

The order in Council* for the payment of this allowance was passed December 18, 1706, and the province treasurer's account† shows that it was paid.

See resolves, 1704-5, chapter 91.

Chap. 114. This chapter is from archives, vol. 71, p. 263. It is recorded in council records, vol. VIII., p. 268.

This chapter was passed upon the report of a committee appointed by the General Court to attend the Governor on a visit to Castle Island to view "what was necessary for the better securing the works there." This report is given below, by which it will be seen that it is not only signed by the chairman of the committee of the Council that cooperated with the committee of the House in presenting Redknapp's report, as shown in the note to chapter 67 of the resolves of the year 1705-6, but that the recommendations in the present report embraced substantially such of the alterations proposed by Redknapp as remained unfinished, together with the additional changes suggested by the former committees.

Although no record of the appointment of a new committee has been discovered it is probable that a joint committee was appointed, comprising most or all those who served the previous year for the purpose mentioned above.

The report of this joint committee is as follows:—

"Boston Novbr 5. 1706.

The Comitte appoynted by this Court, to waite on his Excellency the Gov^r to Castle William on Castle Island, Viewing what was Necessary for the bettor Securing the Works there, are humbly of opinion—That its needfull that a Wharfe be built before the West & East Demie Basti at the lower battry, and the Wharfe by the Block house be Repaired.

The Coverd Way that goes from the East Powder house in to y^e East Bastion at the lower battry be finished.

The finishing the blinde for Secnryty of the East Powder house be don with Timber.—.

The Sod work to be well Repaired.

That a Cirbe be made over the well at the lower Battry.

That the top of all the Walls of the fortification, be well poynted and then covered with Shingles to Secure them from the Voyolenc of the Weather.

It would be very benifitall and save a growing charge, to have a Mason and a Carpenter allways upon the place, to poynt the Walls, Repaire the platforms &c constantly to attend the worke of their owne trade, as theire may be occasion, & be freed from Mounting the Gard, w^{ch} may be but a little more Charge then a private Centinall.

ELISHA HUTCHINSON

by ord^r of y^e Comitte."—*Mass.*

Archives, vol. 71, p. 262.

On the eighteenth of November this report was read and accepted in Council, and a vote passed thereon and sent to the House, for concurrence, "That his Excell^y be Desired to cause a Mason and a Carpenter to be Enlisted as Centinels in the Garrison; And the Representatives are Desired to consider the Charge of Repairing the workes above mentioned, and to make Provision accordingly."‡

On the nineteenth this vote was read in the House, but no record of further action thereon has been found until the thirtieth, when the order which constitutes this chapter was substituted, in the House, for this vote of the Council and concurred in, and consented to by the Governor.

The following orders in Council were passed to carry out the provisions of this chapter and to provide for the payment of the cost:—

"Dec. 28, 1706. Ordered. That Elisha Hutchinson & Penn Townsend Esq^{ts} with Captⁿ Zechariah Tuthill be a Committee to provide the Materials, and to Oversee the making and laying of the Wharves, and the other works directed by the General Assembly, at her Majesty's Castle William, at their Session in October past.

J: DUDLEY."—*Exec-*

utive Records of the Council, vol. 4, p. 355.

"July 12, 1707. Pursuant to an Order of the General Assembly at their Winter Session in the year past, upon the Report of their Committee to consider of the works and reparations needfull at Her Maj^{ty}'s Castle William; viz: That a Wharfe be built before the West and East demi Bastion, at the Lower Battery, and the Wharfe by the Block-house repaired, at the Publick Charge, and the tops of the Walls pointed and shingled in the Spring. The Souldiers to be employed in the work as much as may be, and allowed twelve pence p^r day more, than their stated wages &c.

Advised and Consented. That a Warrant be made out to the Treasurer to advance and pay the sum of thirty pounds to Captⁿ Tuthill the commanding Officer at the Castle, for paying off the Souldiers for their Work about the Wharffes, at the rate abovesaid p^r diem. He to be accountable for the disposal thereof accordy And that His Excellency give forth his order for the pointing & shingling the Tops of the Walls."—*Ibid.*, p. 435.

"Sept. 18, 1707. Ordered. That Mr Commissary Gen^l supply such quantity of the Boards and Spars used for Platformes in the late Expedition to Nova Scotia, as shall be needed for covering the Tops of the Walls at Her Maj^{ty}'s Castle, Pursuant to the vote of the General Assembly in the year past, His Excell^y having already made out a Warrant for the doing thereof.

J: DUDLEY."—*Ibid.*,

p. 464.

* Executive Records of the Council, vol. 4, p. 354.

† *Mass. Archives*, vol. 122, p. 276.

‡ *Ibid.*, vol. 71, p. 262.

"Sept. 16, 1708. Pursuant to the Order of the General Assembly at their Session in Octr 1706, for several reparations to be made at her Maj^y's Castle William; and that the Souldiers be employ'd in the work as much as may be, and be allowed twelve pence ^{per} diem, more than their stated Wages,

Advised and Consented, That a Warrant be made out to the Treasurer to advance and pay unto Captⁿ Zechariah Tuthill, the sum of Ten pounds by him to be distributed unto the Souldiers employ'd in the s^d Works accordingly; he to be accountable for the disposal thereof." — *Ibid.*, p. 624.

"Sept. 16, 1708. Ordered, That Lient^{nt} Col^{le} Winthrop now Captain of Her Maj^y's Castle William, be added to the Committee for the s^d Castle.

J: DUDLEY." — *Ibid.*

By the province treasurer's accounts it appears that a payment of thirty pounds* was made to Zechariah Tuthill, commander of Castle William, in 1707-8, and another payment of ten pounds† in 1708-9.

Chap. 115. This chapter is from council records, vol. VIII., p. 268. It is preserved in archives, vol. 71, p. 276.

From entries in the executive records of the council‡ it would seem that James Taylor, province treasurer, having presented an account "of money advanced by him to Captⁿ Zechariah Tuthill Commander of her Maj^y's Castle William, for provisions, fire wood & Candles from the 12th of January 1705, to the sixth of April 1706, and for arrear of fire wood in the year past, & towards the charge of the Quarter now running, amounting in the whole to three hundred seventy three pounds, seven shillings and nine pence," the following order was passed:—

"April 17, 1706. Ordered. That John Walley, Penn Townsend & Andrew Belcher Esq^{rs} be a Committee to consider and state proper Rules for the fire-wood, Candles and other incidental petty charges for her Maj^y's Castle William, by the day or week, and to offer the same to the Board for consideration, as soon as may be." — *Executive Records of the Council*, vol. 4, p. 277.

On the same day the Council advised and consented that a warrant be made out to the treasurer to pay himself the amount charged as above, which he accordingly did, as appears by his account § from May 31, 1705, to May 31, 1706.

Before the committee of the Council had made their report, the representatives formulated a list of grievances, in which, among other things complained of, they designated the following:—

"4 The great Expence of Candles at the Castle William it being twenty one pounds for nine monthes

5 The allowance of wine & sugar to Captⁿ Southack for haling y^e Gally ashore & Incidental charges. 18th: 9s — 6d

THOMAS OAKES Spea^r." — *Mass.*

Archives, vol. 71, p. 235.

The grounds of objection were thus stated in the preamble to the list of grievances:—

"In the Hous of Representatives

Whereas in the Examination of the Accompts of the Province Treasurer were found several summes of mony Drawn out of the Treasury which were not allowed of by this hous and Therefore grievous to them, they Desire that no more of the Like nature be Drawn by his Excellency & Conncell without the Consent of s^d hous," — *Ibid.*

This list, which appears to have been written out as early as the seventh of July, and "offered" on the fifteenth, bears an endorsement in the handwriting of the Secretary, dated the seventh of August.

No further action on the matter of this chapter has been discovered until the thirtieth of November, when the following report by the committee of the Council was read at the Board and accepted, and sent to the House for concurrence:—

"In Obedience to his Exclency's Order in Council dated the 17th Apr^{il} 1706 @ & To us the Subscribers To Consider of the Charge and Expence of wood and candles at Castle William and what may be soefisant to serue s^d Castle one yeare,

We are humbly of Opinion that ffor the saneing the Expence of wood; its nessecary to seet up Eight stoues in the Gard rums and Lodgings; for the more Comfortable Entertanement of the officers and soulders thare to abide; which being don we with Captⁿ Zackery Thutle the p^{re}sent Commanding officer in s^d Castle;

Have Computed: that ninty cord of wood may bee soefisant to serue the Occasions of s^d Castle One yeare and that fovre hundred pounds of candles will be soefisant for the same Tyne

We also propose that the severall Officers Endent ffor the severall stores and Utencells they have or shall recaine into thire possessions which belong to the province and that they accompt for the same with such p^{er}son as his Exclency and Council Order

JOHN WALLEY
PENN TOWNSEND
AND^r BELCHER." — *Ibid.*,

p. 275.

* *Mass. Archives*, vol. 123, p. 30.

† *Ibid.*, vol. 122, p. 310.

‡ Vol. 4, p. 278.

§ "Paid my Self what was Disbursed by me at Sundry times from the 6th of April 1705 to the 6th of April 1706. Pursuant to an Order of the Governour and Council for Provisions firewood & Candles, and towards the Charge of the Quarter now running for her Maj^y's Castle on Castle Island, the Honble Col Tho^s Povey Esq^r Commander & for other Incidental Charges for Her Maj^y's Service 108^l. 18^s. 5^d."

— *Mass. Archives*, vol. 122, p. 249.

On the same day the House passed an order substantially identical with the last paragraph in this chapter; and this order was concurred in, and consented to by the Governor.

Chap. 116. This chapter is from archives, vol. 40, p. 884. It is recorded in council records, vol. VIII., p. 267.

Captain Nathan Hayman, or Heyman, of Charlestown, died at Bristol, July 27, 1689, leaving a widow, Elizabeth, daughter of Captain John Allen, (whom he married March 11, 1673-4,) and six children; viz., Nathan, born January 23, 1674-5; Elizabeth, born February 21, 1676-7; Sarah, born August 22, 1679; Mary, born June 10, 1682; Grace, born January 3, 1684-5, and John, born December 22, 1687. The eldest daughter, Elizabeth, was married to the Rev. William Brattle of Cambridge, November 3, 1697, and in her family, as appears by the papers referred to in a later chapter,* her sister Mary resided after her father's death.

Captain Hayman removed to Bristol before the birth of Grace, and resided there until his death. Nathaniel Blagrove of Bristol, who married his widow, June 18, 1690, was appointed administrator of his estate. February 15, 1695-6, by John Saffin, then judge of probate† for the county of Bristol. Blagrove having rendered an account of his administration to Judge Saffin—which was allowed June 20, 1702, but which was claimed to be imperfect in the particulars specified by Judge Byfield in his objections hereinafter set forth, and therefore not final—and he having neglected to render a second account during the minority of Mary, and having made no satisfactory settlement with her, she applied, by petition, to Nathaniel Byfield, ‡ who had succeeded Saffin as judge of probate, for an order or decree directing the administrator to assign to her her portion of her father's estate. The date of her petition was January 8, 1704-5. It appears to have been prosecuted by Paul Dudley, and was probably drawn by him at the suggestion of her brother-in-law, Brattle, between whom and Blagrove sundry letters concerning the settlement of the estate passed before the administrator was cited to render his account. The citation ran as follows:—

"Bristol ss/ By Nathl Byfield Esqr Judge of ye Probate of Wills &c: in ye County of Bristol/ To Nathl Blagrove Administ^r of ye estate of Capt Nathan Hayman late of Bristol deceas^d Whereas Mary Hayman daughter of Capt Nathan Hayman late of Bristol deceas^d intestate hath by her petition bearing date ye eighth day of Janry last set forth y^e she is arrived to full age & is desirous to take into her owne hands such p^{rt} or portion of ye Estate of her late father, as of right appertaineth to her w^{ch} cannot be done until you have rendred an acct: of Y^o: administ^{on} and given in an acct: of ye moneys and goods &c w^{ch} hath come into Y^o: hands since ye Exhibiting ye Inventory w^{ch} you are und^r ye solemn obligations to doe—I doe therefore hereby Cite you to appear before me at my house in Bristol upon saturday ye 24th day of this inst^h march at two of ye clock in ye afternoon then & there to rend^r an acct: in writing und^r y^o: hand of such y^o: Administ^{on}, and of all ye money goods or estate whatever, y^e hath come to y^o: knowledge as ye Estate of ye s^d: Capt Nathan Hayman deceas^d y^t I may p^{ro}ceed to make such a distribucion and settlem^t: thereof as ye law directs

Dated in Bristol this seaventeenth day of march in ye fourth Year of Her Maj^{ties} Reign
Annoq^{ue} Domij. 1704

A true Copie
folk Court Files.

attest JOHN CARY Cler." — *Suf*

Upon the day above appointed Blagrove appeared before the Judge of Probate, who stated certain objections to the account allowed by Saffin. These were minuted by the Register, and further time allowed to the administrator in which to prepare and present a new account, as appears by the following certificate:—

"Bristol ss: March: ye 24: 1704/5

By vertue of a Citation from ye Honorable Nathaniel Byfield Esqr Judge of ye Probate of wills &c: w^{hin} ye County of Bristol appeared M^r Nathl Blagrove of Bristol Adm^r: of ye Estate of Capt Nathan Hayman late of s^d: Bristol deceas^d intestate before ye s^d Judge who demanded of him s^d: Adm^r: an acct: of his administ^{on} upon s^d estate making several objections why ye acct: already given was imperfect & not to be taken w^{ch} objections were minuted & ye adm^r: had time allowed (viz^t) till ye first munday in may next and then to appear & make his Answers,

The Objections are as fol: (viz^t)

It is Objected to ye Acct: given in by m^r: Blagrove (to m^r: Saffin) as Adm^r: of ye Estate of Capt Nathan Hayman deed:

That he ought to give in an Acct^l. of ye proceeds & improvmt^t of ye whole estate since ye death of s^d Hayman particularly of ye interest of 1010^{li} & when pay^d of ye rents & profits of ye houses & lands of ye Earnings & produce of ye vessells particularly of the Piuke Katharine, of ye Briganteen J^{no}: and Mary of ye produce of ye Logwood

on ye 7th of May being ye first munday ye said m Blagrove did not Appear

Att J^{no} CARY regr." — *Ibid*.

The administrator having thus failed to comply with the order of the Judge of Probate, and continuing to disregard it for more than two weeks after the time appointed for his rendering an account, the Judge, of his own motion, brought suit, in his official capacity, upon the administration bond, in which John Burge and Nathan Hayman, both of Bristol, were sureties.

The writ, dated May 23, 1705, and in the ordinary form of *capias* and attachment, was returnable before the Inferior Court of Common Pleas for Bristol at the next term, being the second Tuesday of July. The *ad damnum*, to the plaintiff "qualified as aforesaid," was laid at six thousand pounds, which was the penalty of the bond. The plaintiff de-

* Resolves, 1708-9, chapter 146.

† Appointed, with John Cary as his register, by Sir William Phips, October 29, 1692. — *Leffingwell Collection of Manuscripts, sale-catalogue, number 5,555.*

‡ He was commissioned October 23, 1702.

clared “. . . in a plea of Debt for yt where as they ye Def^s together wth one Isaac Jones late of Boston in ye County of sthfolk marr^d since Deceas^d otherwise called Isaac Jones of Boston marr^d ye fifteenth day of february in ye seaventh Year of ye reign of King William ye third of Blessed memory at Bristol afors^d in ye County afors^d in and by one bond or writing obligatory, und^r ye hands & seals of them ye Def^s and ye s^d Isaac Jones since deceas^d : (here in Court ready to be produced) bearing date ye day and Year afors^d : they ye Def^s : together wth ye s^d : Isaac Jones since deceas^d did Joyntly and severally acknow- ledge themselves to stand firmly bound & obligeid into J^{no} Saffin Esq^r in ye sum of six thousand pounds cur^t : money of New-Eng^l To be p^d to ye s^d J^{no} Saffin or to his suc- cessor in ye Office of Probate of Wills &c : when they ye Def^s or either of them should be thereunto requested &c : and ye p^{lt} : in fact saith yt he is successor in s^d office of Probate &c for ye County of Bristol afors^d : to ye s^d : J^{no} Saffin neverye^lss altho they ye Def^s : have often been requested by ye p^{lt} to pay ye s^d sum of six thousand pounds (to witt) at Bristol afors^d in ye County afors^d yet they ye Def^s or either of them have not as Yett paid ye same but they ye Def^s have and either of them hath hitherto denied and doe still deny to pay ye same to ye p^{lt} : . . .”

The sherif served the writ by arresting Blagrove on the day of the date thereof, who gave bond.

On the return day the plaintiff filed the following assignment of a breach of the bond :—

“The Breach assign^d by ye p^{lt} is yt he ye Def^t hath not rendred an acct accord. to law
HEARNE J^r Quer.”—*Ibid.*

The defendant, appearing *pro se*, pleaded as follows :—

“The Def^t saveing ye pleas in abatem^t on file pleads yt he hath p^rformd ye Condicon and hath not made ye breach assign^d

NATHAL BLAGROVE Def^t.”—*Ibid.*

The case having been argued and given to the jury, they found a verdict for the plain- tiff in the sum of six thousand pounds and costs of court, whereupon judgment was awarded accordingly.

From this judgment, as well as from the judgment of the Court upon the pleas in abate- ment, the defendant appealed to the Superior Court of Judicature. The next term of the appellate court in that county was to be held at Bristol, on the second Tuesday of Septem- ber. On the twenty-fifth of August the appellant filed his reasons of appeal, as follows :—

“Bristol ss :/ The reasons of Appeal of Nathaniel Blagrove of Bristol in ye County of Bristol in New-England agas^t Nathaniel Byfeild of Bristol afors^d Judge of Probate of Wills &c : from ye Judgm^t of ye Infer : Court of Com : Pleas held at Bristol for ye County afors^d : on ye second tuesday of July last To ye Super^r Court of Judicature to be holden at Bristol afors^d : for ye County afors^d : on ye second tuesday of Sept^r 1705/

First : That whereas at s^d Infer : Court Judgm^t was rendred for ye p^{lt} when ye same by law ought to have been rendred for ye Def^t

2d/ The then p^{lt} now appelle setts forth in his writt for not paying to ye p^{lt} the sum : of six thousand pounds due to him as successo : to J^{no} : Saffin Judge of Probate (unto whome ye bond was made) but doth not Aver in his writt that ye s^d then Def^t now ap^{le} did not pay ye money sued for to ye s^d John Saffin Esq^r whilst Judge of Probate (unto whome the then p^{lt} now appelle call^s his selfe successor) wherefore the then p^{lt} now ap^{le} could have no right to any Action wthout averring ye money not p^d to J^{no} Saffin Esq^r or ye Condicons not p^rformed see Brownlows pleadings fol : 77 : 82 : 84 : 86 : 88 : saith Yett ye afors^d T : altho often requested ye afors^d sum : of &c : to ye s^d N : in his life time or to ye same J after ye death of ye s^d N : hath not rendred &c : ye w^{ch} is parallel to this action, for yt in this Case ye power of a Successor and an Admin^r : or Execut^r : are Equal/

3 : The then p^{lt} now appelle ought to have set forth ye Condicon in ye writ and assign^d his breach yt ye then Def^t now ap^{le} may not be surprized w^t to make ans^r to when ye action is called (and this hath been ye practice of this Court and not Otherwise) see Croke 1 p^t fol : 762 : Hobarts rept^s 199/

4 : The then p^{lt} now ap^{le} setts forth in his writt ye bond to be payd upon request when ye Condition saith or limits a certain time and therefore vitious and ought to abate. see Crokes rept^s 2 p^t Fox v^s Jenkes [Jenkes] Debt for 800 : for yt the Def^t p^rscriptum sum obligatorium 22 Apr^t &c : cognovit se teneri to ye p^{lt} in 800^{li} sol- vend : cum requisitus esset & upon Oyer of ye Obligacon it was shewn yt ye declara- con was cleerly ill because he declares, upon a statute Obligatory solvend : upon request and it now appears to be payable at a day certain w^{ch} was held by ye whole Court to be an incurable fault &c : and statutes Obligatory are no other hut bonds or obligacons of record and are of ye same nature wth others (see Shepherd's Grand abridgm^t 3 : p^t fol : 317 tit : statute & recogni^t : and This is parallel wth ye p^rsent Case for ye writt setts forth ye money to be p^d upon request & ye condition limiteth a certain time for ye p^rformance thereof/

5 : For yt ye then p^{lt} now ap^{le} his writt is wthout presedent or any tollerable warrant and it will be to ye ap^{le} a matt : of ye greatest severity to make him ye first, espially when this practice (wth submission) will be of ill consequence If ye Ap^{le} p^rtends it is agreeable to ye practice of England to draw writs upon ye Obligatory p^{lt} of ye bond, then must ye Initacon exactly conform thereto, as for example ye p^{lt} suing a debt for 20^{li} upon an obligation he sayes de placito q^d reddat ei viginti libras quas ei debet & unjuste detinet &c : and then goes on & shews ye date of ye Obligation & tener of it but no such method is here observed so yt either the p^{lt} must come to ye practice of England, (w^{ch} by his mistake he endeavours to imitate) or he must attend ye practice & method : of ye Provn neither of w^{ch} he hath observed/

6/ That had ye then pl^t now ap^{lee} brought a proper writt upon ye Obligation whereof yo: Honor^s might legally Judge yett then ought ye def^t: now ap^t to have had on demand ye Comon priviledge w^{ch} of right belongs & is never denyed to ye def^t: (viz^t) an Imparlan^{ce}, w^{ch} is ye practice and course of ye Courts of law in England for ye pl^t hath his choice either to bring his action on ye obligacon: or upon ye Obligacon & Con^{di}con together, if on ye Obligacon, then certainly ye def^t depends on & hath his imparlan^{ce} of Course & Coppy of the con^{di}con to p^{re}pare for ye Issue next terme but if ye pl^t declares of both obliga^{ti}on and con^{di}con: ye same are fully sett forth and ye def^t well apprized to Joyn^e the Issue, and the law of ye Province saith y^t all writs shal be served fourteen dayes before ye tryal or sitting of s^d Court ye reason is y^t ye Def^t may be well apprized of ye Cause of Action and capable of making his defence the the* cause of Action being at large sett forth in ye writt, for otherwise p^{er}sons would be surprized and at once brought to answer to they know not what until in Court, w^{ch} would be a great snare and ye law of Eng^d never was design^d to y^e end but y^t ye pl^t might fairly alledge and ye Def^t have time to ans^{er}: and o: law intends ye same by ye fourteen dayes time, but The then def^t now ap^{lee} hath wholly failed in these matt^{rs} and hath neither attended ye p^{re}ctice of Eng^d nor y^t of this Province, for ye reasons above sett forth but hath sett up a practice unknowne to these Courts, Wherefore ye Ap^t doubts not but Yo: Honor^s will doe him Justice and adjudge the then p^{er}sons now ap^{lee} writt and proceedings thereon to be wrong and Illegall and reverse ye Judgm^t thereon. — *Ibid.*

Thus far the reasons given were in support of a motion or plea in abatement which has disappeared from the files. The following is in support of the plea on the merits: —

“7 That if upon such a writt is possible a faire and right Issue might be tryed, ye now ap^t then def^t is allwaies ready to shew y^t he hath allready accounted for his administ^{ra}ti^{on} &c: to John Saffin Esq^r (whome ye then pl^t now ap^t owes to be his p^{re}decessor) (& who granted to ye ap^t ye Litt^{rs} of Administration and to whome ye bond was made payable) who Examind allowed and approved of ye s^d: acct: and order^d ye same to be regist^{er}ed as of record appears, and ye law of ye Province fol: 6: direct^s y^t any p^{er}son aggrieved at any sentence ord^{er}: &c. may have an appeal to ye Gover^r & Council

All w^{ch} matters and things wth what will be farther offer^d to Yo: Honor^s The ap^t doubts not but You will see cause to reverse ye form Judgm^t & grant ye ap^t his Costs

NATHAN: BLAGROVE ap^t. — *Ibid.*

Some extraordinary legislative and judicial business rendering it inconvenient for a quorum of the justices of the Superior Court to hold the regular term at Bristol, it was adjourned to the twenty-fifth, that being the last Tuesday in the month.

At the adjourned session Paul Dudley, for the appellee, filed the following answer to the appellant's reasons: —

“Bristol ss To the Honble Her majties Superior Court of Judicature Holden at Bristol for the County of Bristol By adjourn^{mt}: the last Tuesday of Sep^r: 1705.

Nathan!: Byfield Esq^r Appellee

Nathan!: Blagrove: Appellant:

The Appellee's Answer to the Appellant's Reasons of Appeal: and first the appellee prays the Judgm^t: of this Court whether the appellant's Reasons ought not to be quashed for insufficiency for that it is not s^d what the action was = nor what Judgment: nor who were parties to the Judgm^t: at the Inferiour Court, t^{is} onely said the appellants Reasons of appeal from the Judgm^t: of the last Inferiour Court of pleas holden at Bristol . . . As to the appellants Reasons the Appellee Answers as followeth —

1: That the Judgm^t: of the Inferiour Court was Right and ought to be Confirmed —

2: that it is not necessary in this Case for the Appellee who is the successor to Avert that the money Due upon the obligation was not paid to the predecessor but onely matter of forme for that the successor may not be Knowing to what the Predecessor has done, Or Received: But further it is sufficiently Implied in the Writ for It is averred that the oblig: money is yet Due to the appellee which it Cannot be if Ever It was paid to his predecessor and if any such paym^t was Really made that ought to come on the appellant's side to plead it in Discharge of himself: so is the law of obligations: pag 360.

3: as to the 3^d Reason the Appellee Answers and saith that it is not necessary for the plaintiff in an action of Debt upon an oblig: with a Condition to set forth the Condition in His writ nor was it Ever Known or Done in the Kingdom of England and the Authoritys Cited by the appellant are against him for that the Case Cited In Hob. 199: Runs thus: A: brings an action of Debt upon an oblig: ag^t B: who pleads that it was upon Condition that he should perform the award of two and that they 2 with a 3^d made no award: this is nought But if the Plantiff doe alledge award: (i.e: in his replication) by the 2 or by the 3 and alledge not a Breach whereby it may appear to the Court that he had Cause of action he shall never have Judgm^t: now it is plain that the Breach must be assigned in the Replication for that 1: the Condition is in favour of the obligor and the plantiff does not Know what the Def^t will plead And the Case Cited in Crook is also clear against the appellant for it is thus Debt upon oblig: condition that such a living were Dischargd of all Incumbrances: the Breach was assigned by the plantiff: But when not in his writt But in the Replication after the Defend^t: had pleaded Conditions performed: for the Book said that the Defend^t: Rejoynd and pleaded that he had not Incumbrd as the plantiff had set forth and then the plantiff surrejoynd And so they went to Issue

4. as to the 4th Reason of appeal the appellee saith that It is certain as the Appellant saith when a particular Day is limited In a Bond, in that Case the Declaration will be brought Upon Request: But where there is no Day as in the present case there the

declaration must be upon the Request and the Case Cited in Crook was not upon an oblig: with a Condition But upon a single Bond for the paym^t: of so much money at a Day Certain: Besides the Condition of the Bond Now sued on is not for the paym^t: of a particular sum of money at a particular time — and so no ways paralll with any Case the appellant Cites.

5. as to the 5th Reason the appellee saith that his writ is not without precedent or warrant But has innumerable precedents to Justify it: for that there is no other method or practice in England in suing upon Bonds with Condition — But to Declare on the obligatory part and leave the Condition for the Defend^t: unto whom it Belongs — for the Condition of a Bond appertains not to the obligee: and the practice in N: England for some years last past has been agreeable to the law of England in actions of Debt upon Bonds to Declare only upon the Obligatory part Both for the Reason and Brevity of it —

6th as to the sixth Reason: the appellee humbly offers that really it Can be no Reason of appeal at least no Reason to Abate for that the Continuance of a Cause is the act of the Court and no ways concerns the Writ or process: and if this hon^{ble} Court should be of opinion that the appellant ought to have had an Imparlan^{ce} yet that can't set aside the Judgm^t: But Besides the appellant offered no manner of Reason to the Inferior Court why his Cause should be Continued But only Insisted on it that it ought which Can be no Reason in law —

7. to the 7th & last Reason the appellee saith that a very fair & Just Issue might be and was tried in this cause viz whether the Appellant had performed the Condition of his Bond If not the Bond is necessarily forfeited: & as to what the Appellant pretends of his having accounted and Administred according to law that is what the appellee Denys and will take Issue upon and will prove that he has not accounted & administred according to law — and as to the proceedings of the late Judge of probate of Wills &c. in this county relating to the administration of the appellant; the appellee saith 1: that they were manifestly contrary to the law of this province in that Case made and provided as will appear in many Instances — & 2: whatever the Judge of probate will Doe or have an administrator to doe yet the Administrator must look to it that he administer according to law and If he dos not t'will not Excuse him or his Bond to say that what he did was by the opinion & Consent of the Judge of probate & — for the Judge gives no security for his office But the Administrator must give Bond: & 3. the Common law is not to be Controwled By the proceedings of the Court of Probate of wills &c: as for Instance a will that is proved in the Common form by the ordinary are often times set aside and overthrown By the Common law — and mens Estates whether Reall or personall are to be Determind & Governed By the Common law: upon the who'e matter unless the appellant Can prove that he has in all things accounted and administred upon the Estate of the late m^r: Heyman according to law he has forfeited his Bond: now the Appellee can give severall Instances of the male administration of the appellant and sundry considerable summs that he has Rendred no account of whereby he has broken his Bond whereupon the appellee Doubts not but that this Hon^{ble} Court will affirm the former Judgm^t

P. DUDLEY

pro. Appellee. — *Ibid.*

Meanwhile. the appellee filed with the clerk the following certificates, signed by two of the children and the husband of another: * —

“To the super^r: Court of Judicature &c: held at Bristol for y^e County of Bristol on y^e second tuesday of Septem^r 1705/

These may Certifie Y^o: H^{on}ors

That wee whose names are hereunto subscribed such of us who have red: our shaires or portion's of our late Honor^d Father Cap^t Nathan Hayman his Estate are therewth fully satisfised and Contented and have no Cause of Complaint against our Father in Law m^r: Nath^l Blagrove, but that he hath done, w^t: is right and handsome herein, as also to our Education and maintenance, and other of us who have not as Yett red: our portion are well satisfised wth y^e managm^t of y^e same now in y^e hands of my Father in law and as yett have no cause of Complaint he haveing taken due Care for my Education and maintenance hitherto; and question not but I shal red w^t: is due to me, and therefore desire it may remain in his hands till I shal Call for it

Is witnes JOHN PELTON

MARY SANDERS.” — *Ibid.*

THE^o CHURCH:

Arke of

The m + GRAS HAMAN

“To the honoured the Superior Court now Siting in Bristol the 27 Septemb^r 1705

That I the Subscriber doe Certifie — being the Eldest Son of Cap^t Nathan Hayman Late of bristol Deceased That when I Came of Age I Demanded of M^r Nathaniel Blagrove my part of my said ffatheres Estate who very Readily paid me the Same soe y^t I haue noe Cause of Complaint Against him Neithere Am I Concerned in this Trouble

Bristol 27th Sept^r 1705

NATHAN HAYMAN.” — *Ibid.*

After the evidence was in and the arguments made, at this term, “in which much time in pleading was taken up and many papers filed,” the cause was continued to the next term^t of the Court, at Bristol. This was done on motion of the appellee's attorney, the appellant having “. . . Entered into a Rule of Court to Attend Citations of the Judge of Probate for the Settlement of the Estate of Nathan Hayman deced & Account for the same According to Law. . . .”

* Sewall says that four of the six “orphans” signed writings disavowing the suit on Blagrove's bond. See his letter to Byfield in foot-note, *infra*.

† The term began September 12, 1706, by adjournment from the tenth, and the entries quoted are to be found in the records of the Superior Court of Judicature, 1700-1714, fol. 187.

At the adjourned session, before Samuel Sewall, acting chief justice, John Walley and John Leverett, two of his associates, "... the Writ Judgment Reasons of Appeal & all things touching the Same being fully heard the whole was Committed to the Jury who were Sworn to try the same and Returned their verdict therein upon Oath That is to say They find for the Appellee Confirmation of the former Judgment & Cost of Courts. . . ."

The appellant then "... Moved that the Bond might be Chancery'd down to Its Just debt & damage," and filed his reasons therefor. These reasons have not been found in the files but the answer made to them by the appellee was as follows:—

"Bristol ss

Nathaniel Blagrove Appell^t

"

Nathaniel Byfield Esq; Appellee

} At a Superiour Court of Judicature held
} at Bristol for the County of Bristol the 13th
} of September 1706 by adjournm^t from the
} 10th of said Month

The Appellees answer to the Appell^ts Reasons offered to this honorable Court for Chancery of an Obligacon of 6000^l found ag^t him by the Jury's Verdict./

- 1 That it is certain that the Law of this Province gives [no ans*]wer to the Courts of Law to Chancery the penalty's of Bonds &c to the just debt and damages [*] and the reason is apparent for that there is a certainty to Chancery the same to./ and for noe other reason./
- 2 That there being noe certain sume to Chancery this Bond to the Condition of the same being to performe a certain Act (and one of very great moment) the Appellee conceives & doth averr that the bond cannot come any wayes to be Chancery'd the nature of it being such that the same will admitt of Noe Chancery within the intent of our (or any) other Law in the universe./
- 3 The method prescribed by the Appell^t to chancery the bond is altogether contrary to Law & contrary to His own Act for that he having not performed the Condition of the said bond by contemptuously refusing to doe the same can never expect any Chancery./
- 4 That the Appell^t woud pretend really that the Appellee ought to shew forth what Items were omitted out of the Accot &c that the bond may be chancery'd down to the same
- 5 Which thee Appellee^t saith is contrary to Law because by Law tis the Appell^ts Duty to doe the same as well as his own Act (to wit) the Bond then which nothing can be stronger./
- 6 That if the Appell^t can have noe other relief the Appellee saith 'tis his own fault & *volenti not a fit injuria* for he having given bond to render a just & true acco. upon Oath of his Admicon & the former being found not true he hath had a twelve months time to perfect the same which done according as the Law directs will ease him sufficiently from the mighty hardship he at present pretends to lye under by the Jury's Verdict./
- 7 That notwithstanding what the Appell^t saith there hath been noe Accot rendred hitherto pursuant to the condition of said Bond for according to his own shewing there are but severall paym^{ts} made which shews noe completion but an Imperfect Act
- 8 That the Judge of the Probate the now Appellee having proved the pretended accot not a true accot according to ye demands of the bond saith he hath done his Duty & it is incumbent upon the Appell^t to render a true accot pursuant to the said Bond — And as to the president cited by the Appell^t 'tis not to the purpose the breach laid being 20^l certain & noe more insisted upon by The Judge of Probate & soe might well be chancery'd to ye just sume demanded

All which is humbly submitted to this honorable Court by

NATH^l BYFIELD." — *Ibid.*

The above answer was filed on the fourteenth. The record of the case is made up as of the twelfth, but it must have been pronounced after the filing of Byfield's answer, since it concludes as follows: "And the Court was of opinion that the Bond would not Admitt of a Chancery. Its therefore Considered by the Court that the s^d Nath^l Byfield qualified as afores^d shall Recover of the s^d Nath^l Blagrove the Sum of Six thousand pounds Money debt & Cost of Courts Placed at five pounds Eightene shillings." †

Execution was issued October 23, 1706, for the full penalty, in accordance with the judgment; but the appellant intending to present to the General Court, at the session which began on that very day, his petition praying that the execution be suspended, no service seems to have been made upon it until some ten months later.

The following is Blagrove's petition:—

"To His Excell^y Joseph Dudley Esq; Capt General & Govern^r in Chief in and Over Her Majties Province of the Massachusetts Bay in New England, And to the Hon^{bl} the Councill and representatives

The Humble Petition of Nathaniel Blackgrove Adm^r of the Goods Chls rights And Credits of Capt Nathan Hlayman late of Bristol in the County of Bristol Deceas^d

Sheweth

That John Saffin Esq; late Judge of Probate of Wills &c^a for the County of Bristol, Committed Administration of the Said Nathan Hamans Estate to Yor Petitioner (who married the Intestates widow) & took bond with sufficient Suretys in the penalty of 6000^l for his faithfull Administration according to Law

That afterwards viz^t the 12th August 1702 Yor Petitioner did accot with the said Judge, for the whole Inventory of the Intestates Estate, amounting, to 2975^l . 1^s . — who did Examine allow & Approve of the said accot and Order'd it to be filed & recorded,

That Coll^r Nathaniel Byfield who Succeeded the said John Saffin Esq; in Ye Said Office of Probate, and who Now Executes the Same place, did upon Some differences arising,

* Manuscript mutilated.

† *Sic.*

‡ Records of the Superior Court of Judicature, 1700-1714, fol. 188.

about Some disputable matters referring to the Intestates Estate, herein after mentioned; Commence his Action of Debt against Yo^r Petitioner upon the Said penal Bond of 6000^l; and at an Inferiour Court of Comon pleas held at Bristol for the County of Bristol, recovered Judgement for the whole penalty, from which Judgem^t Yo^r Petition^r appeal'd to the Superiour Court of Judicature of y^e County, where the former Judgem^t was admitt'd, whereupon Yo^r Petitioner timely mov'd y^e Judges (as is constantly done in like cases) that the Bond might be Chanc'd alludging (when he found some demurr & delay) 'That by an act or Law of the Province, 'the Justices of the Courts of Law were positively directed & impowred to Chancer all Bonds, mortgages specialties &c^s, where the forfeiture was found and to Enter up Judgem^t according to Equity & good Conscience, and that the reason declared in the preamble of the act was to give great ease & satisfaction to the subject & to prevent Oppression & delay. That there could be no reason against a Chancery but where the damage assign'd did equal or surmount y^e penalty; or where a prisoner in Execution for Debt, for whom Security is given Escapes; then, indeed Judgem^t was to be Enter'd up against his Sureties for the whole penalty. without chancery, are the very express words of the Law, which was a strong argum^t that this was the Only kind of Bond, and that there was no Other, Excluded or Excepted by our Law from Equity. That if it was the Genuine Sence of the Law, that administration Bonds could not be chanc'd, who would adventure to adminis^r or become security on such Bonds.

It was further Urg'd & argu'd That Your Petition^r ought to be reliev'd; because 'twas apparent to the Court, that the penalty of 6000^l found, by the Jureys verdict, was incomparably beyond any damage, the Judge of Probate, had assign'd, or could possibly assigne for breach of the Condition; that therefore it could not consist with Justice & Equity that the Court should enter up Judgem^t for the whole?

That it was also pla'd Yo^r Petition^r as admin^r had accounted, & had, made severall payments to y^e Intestates children & others, which so far as was good That Judgem^t could not in the case at barr be Enter'd up for more then was due; for that the children Could only claime their severall equal parts of their fathers Estate, and the Judge could distribute no more, that as for the Judge himself he neither had, nor ought to p'tend to any benefit by y^e penalty, who was but the medium or Instrum^t of the suit, what then was to be done with the surplus, or exorbitant part of this penal 6000^l?

It was Likewise further argued That if the pl^t Judge of probate, knew of any male Administration, of any damage sustain'd or the reasons that p'duced this Suit, these having pass'd y^e consideration of the Jury, & they upon it, having found the forfeiture of y^e bond, 't would be an easie guide & direction for the Judge of Probate to offer, and for the Equitable Judges to determine, to what sum^m to chancce this grievous penalty; or if those were not apparent, 'twas plain it was, too soon; as there was no good cause to put the Bond in suit.

That these Bonds when Sued were Ever more Chanc'd, & instances given thereof, but none could be mentioned or p'duced to y^e contrary; yet not withstanding these, & many other arguments, Judgem^t was Enter'd up against Yo^r Petition^r for the whole 6000^l by the Order of Mr Justice Walley & Justice Leveritt, against the opinion of the Chief Judge (Col^o Hathorne, the other Judge being absent).

And further Yo^r Petition^r humbly Craves Leave to add; That this whole process by an, extraordinary method and advice was mov'd & carry'd on by One of the Daughters of the Intestate (all the other Children having either releas'd Yo^r Petitioner, or by voluntary Instruments in writing under their hands declared, their great satisfaction in Yo^r Petitioners fidelity & good Intentions towards them.

That the Chief matters in difference are whether Yo^r Petition^r ought to acct for Some Items, suggested, for which he thinks he is not accountable by Law, having as afores^d accounted for y^e whole Inventory, and having charged nothing in y^e acct for the board education & Cloathing of the Intestates Children, nor for his great expence of time & money abt the Improvment & managem^t of the Intestates Estate; so that Setting one thing against another, upon a fair acct & adjustm^t, before unprejudic'd, indifferent p'sons as has been frequently offer'd by yo^r Petition^r there will be found, but a small Residuum to balance.

And May it Please this Honour^l Court

Such is the hast & Severity of yo^r Petition^rs Enemys, that without any regard to Equall Justice, or to Yo^r Petition^rs being a Member of the Honour^l House of represent^s Execution is already actually taken Out against him, for the whole 6000^l Even while the House was sitting, thereby to Overawe, & keep him in Continual dread, to Augm^t & put him to unreasonable, & unnecessary charges (the first Step, at least is 40^l or 50^l fees to y^e Sheriff) so that no less can be aim'd at or Intended then his utter ruin.

Yo^r Petitioner therefore Humbly Prays this Honour^l Court that a speedy Remedy may be provided for this great mischief & Oppression, That the Law mentioned (as he Humbly conceives) being sufficient to relieve him; The writt of Execution may forthwith be susp^dced, and the Judges of the Superiour Court be Order'd at their Next sitting to Chancce the said Bond to the Just debt & damages, before another Execution Issue; or that some other Effectuall Care be taken without delay That Yo^r Petitioner may be Judged according to the rules of Equity & good Conscience, and not by the Utmost rigour and Severity of the Common Law, And your Pet^r shall ever pray &c^a

NATH^l BLAGROVE." — *Mass.*

Archives, vol. 40, p. 890.

This petition was read twice in the House November 5, 1706, and a third time on the sixth, when the following order was passed thereon and sent to the Council, for concurrence:—

"Ordered That the Praier of the Petitioner be Granted, and the writt of Execution, be forthwith superceded, and the Judges of the Superiour Court, be ordered, at their next Sitting to Chancce the Bond refer'd to in this Petition, to the just Debt & Damages before another Execution Issue." — *Ibid.*, p. 891.

This order reached the Council on the sixth, when it was "read and ordered to be shown to the judges." On the nineteenth the judges "were heard, who offered the grounds and reasons why they did not chancer the same," whereupon the Council "voted a nonconcurrency." On the same day the representatives passed the following order and sent it to the Council, for concurrence:—

"Ordered *nemine contradicente* That Execution be forthwith superceeded and that no other Execution be Issued out untill this Court shall make an act, for relief in this, & the like cases by Direction to Chancer all administration Bonds & in the mean time Mr Secretary be directed to draw an act accordingly."—*Ibid.*, p. 889.

In the Council this last order was read on the twenty-sixth, and the Board voted not to concur, "Judging the Law already Sufficient in that respect."* On the twenty-eighth the House passed and sent to the Council, for concurrence, another order, as follows:—

"Ordered That the Execution be Suspended untill the last of May Session next, and in the mean time and as soon as possible, the Petitioner render an additional acc^t of his administration to Cole Nathan^l Byfield, Judge of Probates &c^a & upon the s^d Judge's non-acceptance of s^d acc^t the Petitioner apply himself, to the Governor and Council for the making up of the Same & when adjusted the s^d Judge shall upon the Record acknowledge Judgment satisfied, for the six Thousand Pounds."—*Ibid.*, p. 888.

On the thirtieth the Council refused to concur in this order, and at the same time passed, and sent to the House for concurrence, the order which constitutes this chapter, save that instead of the words, "until y^e last day of May next," in the first line of the order, it contained the words, "by the Space of Ninety days from the date hereof." This order was read in the House on the thirtieth, and again on the second of December, when it was concurred in, with the amendment changing the limit of suspension of the execution to the date which appears in the order. In this vote the Council concurred, and the order was consented to by the Governor.

While the subject was before the Council, Sewall † manifested deep interest in the legal question involved, and wrote thus to Wait Winthrop, one of his associates on the Board:—

* Mass. Archives, vol. 40, p. 889.

† In a letter to Byfield, written eight days earlier, Sewall shows how anxious he was that equity should be done by agreement between the contestants, if possible. His rebuke of Byfield's censoriousness was sharpened, no doubt, by his intense antipathy to anything in a judge that savored of personal interest in any issue of which he had cognizance. Byfield, who, as judge of probate, was nominally plaintiff in the action on Blagrove's bond, was also chief justice of the Inferior Court of Common Pleas of Bristol, before which the case was tried. The letter is as follows:—

"Nov^r 2, 1705.

SIR,—Yours of Oct^r 11th was delivered me just after Lecture, Oct^r 25th, 1705, wherein are these words,—'by all which it seems very apparent that the said Admin^r is guilty of Perjury; and yet nothing was said to him in Court, of his having done amiss; but my self (who as Judge of the Probate of Wills &c, in the behalf of Orphans, and in pursuance of the Law, and my Oath, appeared there to Answer the Appeal) was very much disconcerted by your Hon^r; to my great dissatisfaction.'

This [is] a groundless and injurious Charge. Indeed in the morning, when I declared that the Court's Opinion was the cause should proceed; I also expressed my earnest desire that the parties might yet come to an Agreement among themselves; which would be acceptable to the whole Court and did say that though she were not mentiond, nor present, yet Mrs. Blagrove was very nearly related to the cause, being Mother of the children, for every of whom she had gon down into the valley of the shadow of death, that they might come abroad, and live in light, and therefore it was to be desired, that Differences might be taken up, to prevent any alienation of Affection between Madam Blagrove and her Husband, on the one hand; or her, and her Children on the other hand. The greater the cause was, of the more importance it was for the parties to agree. This Motion for Agreement I made in my own Name, and in the name of the Court; and did not speak to the Court or Jury; but to the Parties. And not being hearkend to, I was willing the Law should have its free course. How this should reflect upon the Law, or your self, I cant imagine.

Your Appearance for Orphans is made somthing dim, by reason that Four of the Six, by Instrument under their hands, disavowed the Action; and declared themselves very well satisfied with the Management of Mr. Nath^l Blagrove their Father-in-Law.

As to not speaking to Mr. Blagrove of his Perjury, he was not in Court to such purpose. You might have persued him Criminally, if you had pleasd, But he was in Court as an Appellant in a Civil Action, to be Tried by a Jury; in which much Time in pleading was taken up, and many papers filed. I had taken Notes, and was just ready to have sum'd it up to the Jury; and contrary to my Expectation, was prevented by your Attorneys making a Motion to have the Action continued to the next Term; which was complied with by the Appellant, Entred by the Clerk, Read in open Court, and agreed to by the Express consent of both parties; I was doubtful about the Method, and therefore said, If it may be safely done. Here was an end of the Action till September 1706.

Mr. Saffin would have justified his proceedings as Judge of the Probate; the Court declined receiving his Paper as not being orderly brought before them. I cannot discern any reason why this should be gravaminous to you. I cannot charge my memory with all said in Court; if there were any thing omitted to be spoken that should have been said; my three Brethren having the same freedom of speech that I had; why must I bear the blame alone?

And I am of the Opinion, it was no Extravagant favour granted Mr. Blagrove, who is now Representative for Bristol that he was admitted to speak a few words to clear his Credit. Which proceeded not from the Court, but his almost irresistible Importunity. If an Indictment of Forgery had been found against him by the Grand Jury; yet Mr. Brattle's Letter ought not to have been read once, much less left upon File; it containing only Hearsay, and insinuating a very heinous Crime. Madam Brattle should have been present face to face. And therefore it seemd unreasonable to have the Letter read over agen wheras no Release was produced in Court; nor that Sum chargd in the Account. It was late in the day; and had a Mile to walk on foot to Mr. Makentashes to Differ, whether his Honor the Lieut. Governour was gon before; and it was indecent for his Honor to wait for the Justices of the Court. And if there was any abruptness in the Court's Adjournment; yet if you duly consider the Deference you require to have paid you when you sit as Judge; and your Licentious way of expressing your Resentment of that Adjournment; you will find your Account overbalanced, and will not expect any further satisfaction from

Honble Sir,

your friend and Serv^t

S. S."—*Letter.*

"BOSTON, NOV 10, 1706.

SIR, — I know not whether I may return from Salem before the Court rises. There are two things of very great moment now before them, viz.: that of Gov^r Bellingham's will,* and whether a bond of administration when sued out ought not to be chancered. It seems plain to me that it ought; for none else can chance it, and the party lyes open to the whole sum *Malum est posse malum*. If the Judge of the Probate be a party, as some would have it, it looks illfavouably for him also to be judge whether any thing of the rigorous penalty shall be abated or no. I discoursed with Mr. Secretary [Isaac Addington] before I went to Bristol Court, and he was then of the opinion an administration bond ought to be chancered by the Court; and it was so done in Grigg's case† in Boston Inferiour Court, wherein Mr Addington's name was used as Judge of the Probate. . . . As to that of ye administration bond, if ye Gov^r would condescend, I could be glad there might be a full Council when that is voted. Shall hasten from Salem as fast as may be, and Mr Brattle & his sister may be notified in the mean time. . . .

Sir, your humble servt, SAMUEL SEWALL." — *Winthrop Papers*, part VI. p. 147.

See resolves, 1708-9, chapter 146, and note.

Chap. 117. This chapter is from council records, vol. VIII., p. 270. It is preserved in archives, vol. 71, p. 277.

The order which constitutes this chapter was "read and debated" in the Council December 2, 1706. On the third it was "read and voted" and sent to the House, for concurrence. In the House it was immediately read and concurred in, and a vote passed that it be printed. On the same day this was "agreed" to by the Council, and the order was consented to by the Governor.

Chap. 119. This chapter is from council records, vol. VIII., p. 271, and archives, vol. 63, p. 72.

On the fifteenth of November, 1706, the following draught of a bill, with the preamble prefixed and the vote annexed, was read in the House of Representatives:—

"Whereas some of this present Assembly now Sitting at Boston in November 1706 are Representatives for divers Towns on ye Sea-Coast in New England, and being well acquainted with ye whale men, doe Credibly informe us at this Generall Court, That it is the desire and request of Such men as fitts out Boats, and allsoe of ye men y^e goes out in Such Boats to take whales, That an Act of ye Assembly may be granted to Thomas Houghton now living in Boston Marchant, or to his Assignes for ye Improvement of ye Lean of ye whales after ye fatt and ye Bone are taken away by Such as ownes them, hee or they paying Eight shillings for ye Lean of every whale hee or they shall cutt up, or canse to be cutt up and carryed away, from ye place where ye Bone and fatt are taken off by such as ownes them, the Lean being worth nothing at present to any Body, but is left to rott, and be washt away by ye Sea, and noe benifiet made of it, Soe that if any Improvement can be made of ye Lean it will not only be an Advantage to those y^e takes whales, but to many other persons for these Reasons following

first . . . It will cause more Barrells made, and Soe more Coopers Sett at worke, and more hands imployd to make Staves

Secondly . . . It will cause houses to be built, and Severall people imploy'd to cutt it up and Cart it to ye houses or places where it is to be wrought up

Thirdly . . . It will imploy our Sloopes to cary it to Boston, or where hee or his Assignes would haue it

* See note to chapter 28, *ante*.

† The case referred to was a suit in the Inferior Court of Common Pleas for Suffolk County, April term, 1706, upon the bond of administration of William Griggs, administrator of the estate of his brother, Isaac Griggs. Addington, as judge of probate, was plaintiff. Administration having been granted in 1699, during the inter charter period, the bond, which was in the penal sum of five hundred pounds, ran to the county treasurer, Adam Winthrop, his executors, administrators, successors or assigns; and the plaintiff therefore declared as assignee, in the usual form of debt, with a profert of the bond. The case was continued, by consent, to the July term, when the defendant appeared and pleaded performance of the condition of the bond, and, upon issue joined, and "after a full hearing," the case was committed to the jury, who found for the plaintiff the whole penalty of the bond; whereupon judgment was recorded, as follows:—

" . . . It's therefore Considered by the Court that the s^d Isaac Addington in his Capacity afores^d shall recover against the said William Griggs and Joseph Bridgman, or either of them, the sum of Twenty one pounds four shillings and six pence money (being the Chauncery of the said Bond unto its just Debt and damages) & Costs of suit — taxed at £2., 15s., 4d." — *Records in the office of the clerk of the Superior Court in Suffolk County*.

The intestate left a widow and two daughters. Nathaniel Balston was appointed guardian of one of these daughters, Sarah, who survived her sister. By comparing the accounts of the guardian and the administrator, both of which were presented to Addington for allowance, it appears clearly, that, of the balance of £256 8s. 6d. in the hands of the administrator, the guardian had received and accounted for £196 1s. 6d. A receipt on file shows that the administrator had paid to the guardian six pounds seven shillings more than he had charged in his account, and that, of the sum remaining in his hands, an unsettled claim for his disbursements towards the maintenance and education of Sarah — to be determined by agreement between the administrator and the guardian — was by the decree of the Judge left open to be deducted when ascertained. The balance of fifty-four pounds shown by the account as remaining in the administrator's hands was thus reduced, apparently with the knowledge and approval of the Judge of Probate, £32 15s. 6d. before action brought on the bond; thus leaving the administrator accountable for £214 8s. 6d., the amount for which execution was issued upon chancering the bond.

The essential difference between this case and Blagrove's is that the latter was for failure to account, so that there was no certain basis for chancering the bond without the intervention of the Probate Court, which the defendant declined to invoke; whereas, in the former, the account had been allowed, and the indeterminate balance finally adjusted, so that there was no dispute as to the amount due by the administrator.

Fourthly . . . If any Improvement can be made of it fitt for Exportation, it will not only be an Advantage to Boston, by helping to Make Returns for old England, but to many of ye Inhabitants of New England, by severall wayes not here mentioned: In consideration of which, ye whale men humbly desires yt an Act of ye Assembly may be granted to ye said Thomas Houghton or his Assignes he haveing promised Severall of ye whale men, to disburse a Considerable Sum of money, to try if any Improvement can be made of it, provided an Act be granted him, with a Restraint and prohibition to all others dureing his time: &c:

An Act for improoving ye Lean of ye whales, after ye fatt and Bone are taken away by Such as ownes them: &c:

Be it enacted by ye Governour, The Councell, and Representitives in generall Court Assembled, And it is Enacted by the Authority of ye Same; That it is and shall be Lawfull for Thomas Houghton of Boston in New England Marchant or for his Assignes; or for Thomas Houghton junior Son of William Houghton of worksworth in ye County of Derby in old England or for his Assignes, or for any of them to cutt up, take, and cary away, all and every part of yt which is commonly called ye Lean of ye whale, after ye fatt and ye Bone are taken off by Such men as brings them on Shoar, or by Such as ownes them, according to ye usuall way and Custom heretofore practized and now used by Such as takes whales; The Said Thomas Houghton Senior or his Assignes, or ye said Thomas Houghton junior or his Assignes or Some of them, first paying, or causing to be payd unto ye Boats men yt brings ye whales on shoar, or to ye owners of ye whale Eight shillings currant money of New England as it now passeth, for yt part of ye whale which is commonly called ye Lean, That he ye said Thomas Houghton Senior, or his Assignes, or ye said Thomas Houghton junior or his Assignes shall cutt up, or cause to be cutt up and caryed away dureing ye full Term and Time of one and Twenty years next ensuing to bee accounted from ye fourteenth day of this Instant November one Thousand Seven hundred and six: And it is enacted by ye Authority aforesaid, That noe whalemenn nor any person concerned in ye whales, shall any wayes willfully wast or destroy ye Lean of ye whale, or cast it in to ye Sea, or Sell it, or give it away, or Suffer any person for them to make any use of it, nleest it be * as they formerly have done before ye granting of this Act, That is to say if ye said Thomas Houghton Senior or his Assignes, or ye said Thomas Houghton junior or his Assignes, shall not have Barrells redy to take away ye Lean when ye Owners have taken off ye fatt and ye Bone, than ye whale men shall let ye Lean lye on shoar to be washt away by ye Sea as it formerly hath been, and shall make noe use of it, but if those men yt takes ye whales, or such men as have any share in them, shall goe about to use it any way to make any profit of it, either by ye way that ye said Thomas Houghton or his assignes doth dureing ye time of Twenty and one years as aforesaid, or any other person dureing yt time, every person soe offending or doeing contrary to ye true intention and meaning of this Act, shall forfeit Ten pounds of Boston money for every hundred weight hee shall soe make use of, with a design to make profit off it, one third part to be payd to ye Enformer, one Third part to ye Government of this province, and ye other Third part to Thomas Houghton Senior or his Assignes, or to Thomas Houghton junior or his Assignes, and it shall be Lawfull for any of them to Seize ye Lean whale yt any person is soe goeing to use, without a License first granted them, by Thomas Houghton Senior, or by Thomas Houghton junior or either of their Assignes: And it is further Enacted by ye Authority aforesaid, yt noe person or persons within ye Government of this province for ye full Time and Term of one and Twenty years next ensuing shall use a New Invented Gun, called ye whale Gun, or a new invented Lamp, called ye whale Lamp, or any Instrument in imitation thereof, to take any sort, or Sorts of fish, or whales dureing ye time aforesaid, without a License first granted them, by Thomas Houghton Senior, or by Thomas Houghton junior or either of their Assignes. And every person yt shall presume to use ye whale Gun, or ye whale Lamp, without a License, shall forfeit ye fish and ye whales hee taketh by help thereof and Twenty pounds for every hundred weight of fish hee taketh, and a hundred pounds for every whale, the fish and money to be divided in to Three parts amongst ye persons aforesaid, and shall have ye Gun and Lamp Seized and taken from them for their first offence, and shall be further fined as ye Generall Court shall think fitt: &c: . . .

Voted that If he doe not effect & accomplish (yt wh is proposed by ye sd charter Privildges to him &c Granted) shall terminate at ye End of 4 yrs: unless the then Genrl Court shal grant further time

THOMAS OAKES Speaker." — *Mass.*

Archives, vol. 63, p. 76.

On the next day the above paper was read a second and third time and sent to the Council, for concurrence. On the eighteenth it was read in Council and nonconcurred.

These transactions seem to have preceded the presentation of the petition referred to in this chapter, which was in two parts. The first part was as follows:—

"To ye honourable Assembly now Sitting at Boston, The humble petition of ye Inhabitants of Eastham and other places near Cape Codd: &c:

Wee your petitioners whose Names are here unto subscribed being Inhabitants of Eastham and other places there unto adjoining In regard all or most of us are concerned in fitting out Boats to Catch & take whales when ye season of ye year serves: And whereas when wee have taken any whale or whales, our Custom is to cutt them up, and to take away ye fatt and ye Bone of such whales as are brought in. And afterwards to let ye Rest of ye Boddy of ye Lean of whales lye on shoar in lowe water, to be washt away by ye sea being of noe value nor worth any Thing to us; wee Therefore humbly begg yt an Act of ye Assembly may be made and granted to Thomas Houghton now living in Boston Marchant or to his Assignes, for takeing and Carrying away all ye Lean of whales yt shall

* The words, "to dung and Manure Land with it, or use It any manner of way but," followed here, but these, and the interlined words, "it be for Indians and Swyne to eat," are cancelled.

be catcht, and taken at any place with in y^e Government of New England, or such part or parts thereof at any place, as hee or his Assignes shall think fitt to make use off after wee and all others that takes whales in other places, haue taken away y^e fitt; and y^e Bone according to our usuall Custom; And y^t hee and his Assignes may haue y^e sole liberty, and full power to try if hee or they can make any profit or Improvement of it, for Ten years next ensuing: And it is our desire for and during y^t time of Ten years, That all persons whatsoever within y^e Government of New England, may be forbidden, discharged, and restrained, to make any further use of it than is now usually Made, with a penalty on such as presumes to doe it during y^t time, without y^e Consent and allowance of y^e said Thom^s Houghton or his Assignes: wee Therefore humbly begg that this our petition may bee granted, well Knoweing, if hee or his Assignes can make any Improvement of it, that it will be of great advantage to us and our posterity, soe long as whales are taken amongst us, for these Reasons following— (viz)

first: . . . It will cause more staves to be fetcht and brought in from other places as well as our own, and more Barrells made, and soe More Coopers will be sett at work, with other hands to build houses for y^e use of it.

Secondly It will imply our people to cutt it up, and to order it accoring to his directions, at such convenient houses, and places as hee appoints

Thirdly When 'tis ordered, and prepared as hee or his Assignes would haue it, it will implye our Sloopes to cary it to Boston, or to such places, as hee and they direct, which will be ane Advantage to us—

Fourthly If any Improvement can be made of it, fit for Exportation, it will not only be of great advantage to Boston, but to many of y^e Inhabitants of New England

In consideration of all which, wee humbly begg y^t An Act of y^e Assembly may be granted to y^e said Thomas Houghton or to his Assignes for Ten years as aforesaid/

And your petioners shall ever pray

SIMON NUCOM
NATHL COFFIN
PETER NEWCOMB
JOHN JONES."*— *Ibid.*,

p. 73.

The latter part was a proviso expressing, it would seem, the condition upon which the rest of the subscribers were willing to join. Forty-six words of the first draught of this proviso were cancelled before it was signed. It is on the same sheet with the rest of the petition and was signed, probably, by those who did not approve of the original draught without qualification. As amended it ran as follows:—

"provided that s^d Tho^s Houghton shall improve the Lab^r of the inhabitants of s^d Towns where s^d whales are taken or cast on shore as hee shal have occasion of their Lab^r

& y^t s^d Tho^s Houghton shal at the end of the term of ten years shal^t disclose and make publick his art and skill in improving the Lean of the whale fish to the best advantage

Item that s^d Thomas Houghton shal pay to every whale man one shilling in mony acknowledgement for each of their several shares in the Lean of the whale fishes that they shal take for the space of ten years.

SAMLL TREAT SENB
SAMLL KNOWLES
DAVID MELTYLL
SAMLL FREEMAN JR
JONA SPARROW
RICHARD SPARROW
RICHARD GODFREE."— *Ibid.*,

p. 72.

One or both of these petitions were presented as early as November 19, 1706, when the House passed a vote which was not concurred in by the Council.

Both the bill and the vote of the House having thus failed, Houghton addressed the following letters to the Governor, and to the Governor and Council, respectively:—

"Boston Novem^r 7th 1706

May it please your Excellency

Haueing Spoke with Captain Belcher this Morning, concerning y^e Act for improoveing y^e Lean of y^e whales, he told me, it would be necessary to Speake to your Excellency, and to give your honour some Information what I intend to doe with it, I therefore Informe your Excellency, and y^e Conncell that I intend to use some part of it mixt with other Things to make Salt petre, and if you please to passe y^e Act, i'l shew your Excellency and some of y^e Conncell the Thing, by which I can putt y^e people in to a way, to raise a Thousand pounds ψ Annum for y^e Government, and Three or fower Thousand pounds ψ Annum to y^e people y^t payes it, providyd y^e Assembly agrees with me, you may see, feel, and tast y^e Thing y^t will doe it, after y^e Act is past; or your Excellency, with Captain Belcher, and some of y^e Conncell, may see it before it if they please, which is what offers at present from

S^t your most humble Servant

THOMAS HOUGHTON."— *Ibid.*,

p. 74.

"Boston Novem^r 26th 1706

To his Excellency y^e Governour,

and y^e rest of y^e gentlemen of y^e Conncell

Gentlemen

If you please to grant me Acts for y^e Things undermentioned, i'l establish them in y^e Country, without putting you to any Charge; If I doe not lay out a Thousand pounds,

* On the back of the petition appears the signature of James Philppen, who may have Intended to join with the subscribers.

† See.

to accomplish and make Improvements of them in five years, the Acts you grant me shall be voyd, to what is left unperformed at y^e end of y^t time —

first: An Act for improving y^e Lean of y^e whales; with y^e use of a whale Gun and a whale Lamp.

Secondly: An Act for making Salt petre, and pottashes. —

Thirdly: An Act for making Tarr by a new invented Killn and a new invented furnace to burne it into pitch.

This last Act, will enable y^e province of New England, to make near Twenty Thousand Barrells of Tarr and pitch in it, every year, more than now is made, and for y^e other things, when y^e whole Country manufactures them, they'l be a greater advantage to y^e province than I shall mention; your Consideration, and Resolution herein is desired by
your most humble and obedient Servant

THOMAS HOUGHTON." — *Ibid.*,

p. 75.

The proposition made by Houghton in his last letter, to demonstrate the practicability of his invention within five years or forfeit his monopoly, so closely corresponds with the limit of time allowed him in this chapter in which to try his experiments that it is not unlikely that his willingness to thus restrict his privilege was a prevailing consideration with the Legislature.

On the fifth of December the order which constitutes this chapter was passed by the Council and sent to the representatives, for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

See chapter 26, *ante*.

Chap. 120. This chapter is from council records, vol. VIII., p. 272. It has not been found in the archives.

No response having been received from the address to the queen, in which the Governor's salary was one of the subjects presented for her consideration, Dudley, in his speech at the beginning of the first session, again forbore to urge compliance with the royal commands for the establishment of stated salaries, and again he accepted a grant from the Legislature, as tendered in this resolve.

The order in Council * for the payment of this allowance was passed December 18, 1706.

See note to chapter 46, *ante*.

Chap. 121. This chapter is from council records, vol. VIII., p. 272. It has not been found in the archives.

The order in Council * for the payment of the allowance granted by this chapter was passed December 18, 1706, and the province treasurer's account † shows that it was paid.

Chap. 122. This chapter is from archives, vol. 58, p. 251. It is recorded in council records, vol. VIII., p. 272.

The order in Council * for the payment of the allowance granted by this chapter was passed December 18, 1706, and the province treasurer's account ‡ shows that it was paid.

Chap. 123. This chapter is from council records, vol. VIII., p. 272. It has not been found in the archives.

The order in Council * for the payment of the allowance granted by this chapter was passed December 18, 1706.

See note to chapter 49, *ante*.

Chap. 124. This chapter is from council records, vol. VIII., p. 272. It is preserved in archives, vol. 71, p. 274.

The resolve which constitutes this chapter was founded upon the following petition: —

"To His Excellency Joseph Dudley Esq^r Captⁿ General and Governour in Chief in and over her Majties^s Provinces of the Massachusetts-Bay &c. in New England And To the Hon^{ble}s the Council and House of Representatives now in General Court assembled November 29. 1706./ —

The Humble Petition of Samuel Hill of Wells.

Sheweth

That on the Tenth day of August 1703 yor^e Petitioner was taken (amongst others) by the french and Indians and carryed Captive to Canada where he Continued untill the arrival of Capt Livingston at Quebeck when yor^e Petitioner was sent with two french men with a Packett to y^e Governor and arrived at Piscataqua the fourth of May, 1705. & from thence came to Boston, and staid there till the time that Capt Veeth sailed for Canada. when yor^e Petitioner returned with him to Quebeck being upon his parole; and there staid untill the arrival of Samuel Appleton Esq^r who was sent with a flagg of Truce, to Quebeck, when yor^e Petitioner was sent by the Governor of Canadas Permission, up to Mont Royal for the hastening and Dispatching away of the English prisoners. Now may it please this Great and General Assembly Yor^e Petitioner when he was here with the french men, had no Quarters allowed him, but bare his own charges, as he likewise did in his going up to Mont Royal, both which times, but especially in his coming from Quebeck he underwent great fatigues, and hardships and was at great Expences, and was Encouraged to hope that he should be allowed not only his Expences, but something for his trouble in the Country's service, which not having Yet reced:

* Executive Records of the Council, vol. 4, p. 353.

† Mass. Archives, vol. 122, p. 274.

‡ *Ibid.*, p. 275.

Yo^r Petitioner therefore humbly prays this great & General Assembly to take the premisses in yo^r serious Consideration & Grant him such allowance for his Expence & Trouble as to yo^r Excellency & Honor, shall seem meet. and shall ever pray &c." — *Mass. Archives*, vol. 71, p. 273.

This petition was read in the House on the fourth of December. On the fifth it was read again and the resolve thereon passed and sent to the Council, for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

The order in Council* for the payment of this allowance was passed December 18, 1706, and the province treasurer's account† shows that it was paid.

For the services in which Hill incurred the "expense and trouble" for which he asked the allowance granted by this chapter, see, besides his petition, the notes to resolves, 1705-6, chapters 36 and 51.

The order in Council advising a warrant to pay Jonathan Boaden and company for transporting Hill and his companions on their journey to Boston to bear despatches from Vandreuil to Dudley is as follows:—

"Jan. 2, 1706-7. A Muster Roll of a Shallop, Jonathan Boaden Master, taken up by Col^l John March May 2^d 1705. to Transport Sam^l Hill and two French-men from Casco Bay to his Excellency, containing an account of Wages for the service of the s^d Master & Company and Boat hire, amounting to three pounds, three shillings and six pence; having been examin'd by M^r Commissary General, was presented—And.

Advised & Consented. That a Warrant be made out to the Treasurer to pay the above sum of Three pounds, three shillings and six pence to the s^d Boaden & Company accordingly." — *Executive Records of the Council*, vol. 4, p. 363.

By the province treasurer's account it appears that Boaden was paid £1 13s. 6d. for his wages and the hire of the shallop,‡ and that four mariners under him were paid one pound ten shillings for seven days' service.§

Chap. 125. This chapter is from council records, vol. VIII., p. 272, and archives, vol. 71, p. 252.

The following is the account mentioned in the preamble to this chapter:—

"1706. The Province of Massachusetts Bay To Sundry disbursements att Cannada is Dr

		Livers.	Sous
October 6 th	to Rigen for the Briganteen hoop	150.	9:—
	to 823 pound beaf att 1 ^d 1/2 for Stoor:	61:	15.
	to 123 ditto att 3 ^d Spent on board	18:	9
	to Cap ^a Bonnar for 200 pound Sugar att 8 ^d	80:	—
	to the pilat for 50 pound ditto att 8 ^d	20:	—
	to Cap ^a Bonnar for Sundry provisions:	29	—
	to provision for the peple sent to morriall	25:	—
	to milk and Cabbiches	8—	—
	to 8 bushels Corn att 30 ^d 4 bushels pease 35 ^d	19:	—
	to 8 watter hogsheds att 6/ 1 ^d hhd	28:	16.
	to one Cask of wine	90	—
	to one Small Cask of brandy 9 th 28 Gallons 6/ 8 ^d	112:	—
	to 2 half firken butter 9 th 101 pound att 5 ^d 4 ^d 1 ^d	25:	5:
	to fowels and Eggs	21:	12.
	to Carpenters work on board y ^e Briganteen	10	—
	to a mason for work	15:	—
	to Straw 5 livers hous hire for y ^e Captines 5 livers 1/2:	10:	10
	to wood & Cool ashore & the vessels vse	24:	10:
	to one barr ^l of flowar	30:	—
	to 1 pound peper 4 livers Swite oile 4 1/2 liv	8:	10
	to boards and planck	32:	10
	to the Tailors bill	15:	15
	to wine Glasses 4 th Sundry Turnops 6 th	10:	—
	to Cash paid for tacking up the boat	15:	—
	to ditto paid for Carrying m ^r Rawlings to the Sity to bye a boat	4:	10
	to a barbor for trimming	8	—
	to the washer woman	8:	10
	to the black Smith	15:	12
	to Gemlet Chok lin nails & Carting: of bords	30:	—
	to Lacount the Tauern keeper|| . . . . .	200:	—

* *Executive Records of the Council*, vol. 4, p. 353.

† *Mass. Archives*, vol. 122, p. 280.

‡ *Ibid.*, p. 271.

§ *Ibid.*, vol. 123, p. 11.

|| The following is a translation of the tavernkeeper's account on file, but it amounts to twenty-two livres less than was allowed to Appleton. It is rendered in livres and sols, the character used in the footings to designate the former being identical with the character used to designate pounds in English. The sol, of course, was the modern son. The word "*doibr*" is evidently an abbreviation of "*doibroir*," a variation of *debroir*, the archaic form of *devoir*:—

"Memorandum of what the S^r Appleton owes [*Doibr*] To Anthoine Le Comte

first,	On the tenth of October of this present year, one bottle of wine, and bread,	18
	On the said day, one bottle of fine wine,	15
13th.	Three gills of brandy,	12
	On the same day, five bottles of wine for his countrymen,	30 15
	Also, at supper, two bottles of fine wine,	10 10

Octobr 6 th	to Cash p ^d for y ^e Redemption of 3 Captius	155:	-
	to Sundry Small Expences and things bought w ^{ch} cannot giue		
	particulars	42:	12
	to my Expences and hors hire befor I went and Sence I came		
	home about this voyage being 19 days at 5 ^s pr day	57:	-
	to Saspan and spon ^s 7 livers:	-7-	00-
	to 38 Loues of Bread sent one board ye vesell att 10 ^d :	17:	li-00

1406 [livres], .5 [sols.], ..

Errors Excepted per SAMLL APPLETON

To 5 Bibles forgotten. which Cap ^t Appleton. Carryed w th	} [£]2. 13[s.] 6[d.]	
him by order of the Gov ^r & Council & given to the		
Captives.		
Pr	Contra	Cr

Livers.

By Cash Received of Gouvernor Vodrell att Cannada

1300."

— *Mass. Archives, vol. 71, p. 251.*

14th.	Three gills of brandy for him and one for his men,	16
	On the same day at breakfast, a plate of beef and bread,	1 "
	Also, one bottle of wine on the same day,	-
15th.	One gill of brandy,	4
	Also, at breakfast, a plate of beef with white sauce,	15
	Also two bottles of fine wine,	1 "
16th.	One gill of brandy and bread,	10
	Also, at breakfast, a plate of beef with parsley,	15
	Also, butter and bread,	10
	Also, two bottles of wine,	1 "
	Also, one dinner for an Englishman,	1 "
17th.	One gill of brandy, and bread,	5
	Also supper for an Englishman,	1 "
	On the same day one gill of brandy,	5
	Also one bottle of fine [wine] at supper,	15
	Also supper for Mr. de Bouttenille,	1 "
	Also for apples,	15
	Also three bottles of wine,	2 "
	Also two bottles of white wine,	1 "
18th.	At breakfast a plate of beef with parsley,	1 "
	Also apples and bread,	15
	Also one bottle of wine,	15
	Also for apples,	5
19th.	One gill of brandy,	8
	On the same day, two chickens and bread,	2 "
	Also, two bottles of wine and apples,	2 "
	Also, supper for an Englishman,	1 "
	Also one gill of brandy,	8
	Also two bottles of fine wine,	1 "
	Also for apples,	10
20th.	$\frac{1}{2}$ pint of brandy and bread,	1 "
	On the same day, one duck,	1 "
	Also on the same day two bottles of wine and bread,	1 "
	Also for apples,	15
	Also on the same day at dinner, apples,	10
	Also, supper for an Englishman,	1 "
	Also at supper, apples,	6
	Also three bottles of wine at two different times,	2 "
21st.	At breakfast one gill of brandy,	8
	On the same day at breakfast, three bottles of wine,	2 "
	Also for bread and seasoning two mackerel,	5
	Also one pint of beef,	15
	Also in money lent,	3 "
22nd.	One gill of brandy,	8
	Also at breakfast, for bread, butter and two bottles of wine,	2 "
	Also the same day one bottle of wine and apples,	2 "
23rd.	One gill of brandy,	10
	Also for an omelette and bread on the arrival of the Sr. nauers,	1 "
	Also one bottle of wine,	15
	Also supper for the Sieur nauers dn tilly and the English captain,	3 "
	Also for apples,	15
24th.	At breakfast, a plate of beef with parsley,	1 "
	Also for bread and butter,	12
	Also for beef with white sauce,	15
	Also three bottles of wine,	2 "
	Also for apples,	10
25th.	One gill of brandy and bread,	12
	Also at breakfast a plate of beef,	1 "
	Also one loaf of bread which they ordered for the Indians,	10
	Also two bottles of wine,	1 "
	Also for the dinner of the said Sr. nauers and of the Captain,	2 "
	Also for apples,	10
	Also one gill of brandy and bread,	10
26th.	One gill of brandy and bread,	10
	Also a plate of beef with parsley,	1 "
	Also a plate of two chickens with oil,	2 "
	Also two bottles of wine and bread,	1 "
	Also for apples,	15
	Also at an extra dinner, two bottles of wine and apples,	2 "

The order in Council* for the payment of the allowances granted by this chapter was passed December 18, 1706. The record of payment in the province treasurer's account† includes fifty pounds granted by resolve, chapter 67, *ante*. For the final payment in settlement of draughts upon Vandrenil by Appleton and Sheldon, see note to chapter 38 of the resolves of 1707.

For an account of Appleton's service see chapters 62 and 107, *ante*, and notes.

Chap. 126. This chapter is from archives, vol. 11, p. 220. It is recorded in council records, vol. VIII., p. 273.

See chapter 107, *ante*, for an account of Williams's return from captivity. He arrived November 21, 1706, and on the thirtieth the town of Deerfield voted to send "Capt. Jonathan Wells, ens. jno. Sheldon and Thomas French, to goe down to y^e bay for them, and in thair be half to act and treat with thair pastor the reverend mr. jno. Williams, in regard to his resettl^g with them againe in y^e work of y^e ministry; as also to take advice and counsel of y^e Elders in our County for the management of that work; as also to put up a petition to y^e generall court or counsel, for a grant of money for y^e encouragement of y^e reverant mr. jno. Williams in his resettelment in said work with y^m; and in all thes particulars to act and doe according to y^e best of thair discretion."‡

It was probably in response to the petition or motion of the above committee that the resolve which constitutes this chapter was passed.

27th.	One gill of brandy and bread,	10
	Also at breakfast, a plate of beef with parsley,	1,, -
	Also one chicken with butter and bread,	1,, 5
	Also two bottles of wine and apples,	2,, -
	Also one gill of brandy and bread,	10
	Also for the English captain's supper,	1,, 5
	Also three half pints of fine wine,	1,, 3
28th.	One gill of brandy,	8
	Also at breakfast, one chicken, butter and bread,	1,, 10
	Also one bottle of wine,	15
	Also for apples at dinner,	8
	Also one bottle of wine,	15
	Also for apples at supper,	5
29th.	One gill of brandy, and bread,	10
	Also at breakfast two chickens butter and bread,	2,, 10
	Also one bottle of wine,	15
	Also for apples at noon and in the evening,	10
30th.	At breakfast a shoulder of mutton,	3,, -
	Also three bottles of wine,	2,, 5
	Also bread,	10
	Also at dinner, apples,	5
Amounts in all,		£104,, 11
Oct. 17th.	Also for a breakfast for the Sr de mommidy with the English, which he told me to charge to the said S ^r Appleton's account,	4,, 10
		£109,, 1
30th.	Lent in money, the sum of 16 livres	16
	Also the said S ^r Appleton has authorized pay for the Englishmen who had been at St. Francois — the sum of twenty-two livres twelve sols	22,, 12
	Also on the said day, a plate of beef with parsley,	1,, -
	Also one bottle of wine and bread,	1,, -
	For apples at dinner,	5
	Also on the said day a pint of wine at supper,	15
	Also for apples,	5
	Also two [loaves of] bread [of ten sols each]	1,, -
		£152,, 8
Closed 31 Oct., 1706.		

	The S ^r ur minister began boarding with me Oct. 19, in the morning, at the rate of 50 s per day.	
	Began to furnish extra, one bottle of wine,	15
	On the same day his son's board began, at the rate of twenty sols per day.	
Oct. 23rd.	For the dinner of the S ^r ur m ^r ers,	1,, 5
28th.	His eldest son began boarding with me at the rate of 50 s. per day makes	12
29th.	For a glass that his son broke	1,, -
	On the same day for a pound of sugar	3,, 12
	For board of his younger son twelve days at the rate of twenty sols per day, which ended today, Oct. 31,	12,, -
	Also for the board of his eldest son four days, at the rate of fifty sols per day, makes	10,, -
		£25,, 12

All the above separate accounts amount to the sum of £178,, -
This said last day of October, 1706.

Novr y^e 3^d 1706. Resaid the Contents of this bill being 178 Livers." — *Mass. Archives*, vol. 71, p. 248.

This paper is endorsed "Col^o Appleton's acco^t of Expence at Canada 1706./ Dec. 29." The date is probably the time of payment by the province treasurer.

* Executive Records of the Council, vol. 4, p. 353.

† *Mass. Archives*, vol. 122, p. 283.

‡ Sheldon's History of Deerfield, vol. I., p. 359.

The following extracts from the News-Letter serve to show the universal joy with which the return of the Deerfield pastor to his flock was hailed as an event auspicious to the settlers of the western frontier:—

"*Hatfield*, January 9 The People of this County are fill'd with Joy, for the Arrival of the Captives; especially, for the Return of the Reverend and Pious Mr. *John Williams*, to *Deerfield* again, upon *Saturday* the 28th of *December* last: which is esteemed a general Blessing. All thankfully acknowledge His Excellency's effectual Care of us therein. And a Design is formed for Rebuilding the Town more Commodiously, and regularly Fortifying of it. *Wednesday*, the 8th Currant was a Day of Thanksgiving there, to Praise GOD for His great Goodness. The Reverend Mr. *Solomon Stoddard*, and Mr: *William Williams* assisted at the Solemnity, each Preaching a Thanksgiving Sermon. Besides the *Inhabitants* of *Deerfield*, sundry Persons of Quality from other Towns were present, helping forward this Religious Exercise."—*No. 144.*

"*Boston*; *January 17.* Upon appearance of the *Rainbow* seen here *Saturday* the 28th of *December*, about Nine in the Morning; some hoped it might be a Token, that GOD would not destroy *Deerfield* any more: And the good News from thence confirms that Hope."—*Ibid.*

During *Williams's* absence from *Deerfield* *Benjamin Choat* officiated as minister in his place and received compensation * therefor from the province treasury.

The order in Council † for payment of the allowance granted by this chapter was passed December 15, 1707, and the province treasurer's account ‡ shows that payment was made, although erroneously entered as for the year beginning December 6, 1707.

Chap. 127. This chapter is from council records, vol. VIII., p. 274. It is preserved in archives, vol. 101, p. 327.

In the draught of the resolve which constitutes this chapter, and which originated in the House November 14, 1706, an important omission was detected in the Council. Thereupon the Board proposed an amendment, supplying the omission. This was on the twenty-first; but the House having taken no action on the amendment a message was sent from the Council, as shown by the following entry:—

"Nov. 22, 1706. *Elisha Hutchinson*, *Penn Townsend*, *John Appleton*, *Saml Patridge* & *Ephraim Hunt Esqrs* with the Sec^{ry} were sent on a Message to the Represent^{es} to observe to the House the Omission of y^e Clause of incidental & contingent Charges for the Support of the Government in their Resolve pass'd to grant a Fund for the Bills, & to move the House to insert the same, as has formerly been used:

And that the House would speedily proceed to determine the Things lying before them, That the Session may draw to an End."—*Council Records*, vol. VIII., p. 264.

On the seventh of December the resolve was passed as it is printed in the notes to the acts of this year, and it was consented to by the Governor.

See the note to chapter 104, *ante*.

Chap. 128. This chapter is from council records, vol. VIII., p. 274. It has not been found in the archives.

For particulars of the defeat of the proposition to revive the issue of debentures, see the note to chapter 109, *ante*.

Chap. 129. This chapter is from archives, vol. 40, p. 886. It is recorded in council records, vol. VIII., p. 275.

Barnard was of the North End, and father of the Rev. *John Barnard* of *Marblehead*. The beacon which he built was set up to replace another on the same site. The first beacon in Boston was erected by an order of the General Court of March 4, 1634-5, on *Sentry Hill*, now *Beacon Hill*, which received the name it still retains from that circumstance. The pole of the beacon was topped with an iron crane from which was suspended a cradle or "skillet" for holding the combustibles to be burned. The flames could be seen many miles from Boston in every direction.

Barnard's account is as follows:—

"1706 The prouine — for a Beaken p ^r order of Mes ^{rs} <i>Edward Bromfield</i> & <i>pen Townsend Esqrs</i>		Dr
May./		
To my selfe 6: days		1 - 10 - 00
To <i>James Barnard</i> 6 : days at 4 ¹ / ₂ 6 ¹ / ₂		1 - 07 - 00
To <i>Tho. Demery</i> 2 . days at 4		0 - 08 - 00
To <i>Jacob Danise</i> 8 ¹ / ₂ days at 4		1 - 14 - 00
To <i>William Thwing</i> 5 ¹ / ₂ days at 2		0 - 11 - 00
To a Negro Man 5 : days at 3		0 - 15 - 00
To <i>Tho. Barnard & son.</i> 1 : day at 4		0 - 08 - 00
To <i>Jⁿ Goodwin & man</i> 1 . day		0 - 06 - 00
To <i>Mr Bears & mate</i> 1/2 day		0 - 04 - 00
To <i>Timbr for the Rounds</i>		0 - 03 - 00
To the Mast		2 - 00 - 00
To 155: foot of <i>Timbr</i> at 4 ¹ / ₂		2 - 11 - 08
To a pole for the Glu		0 - 03 - 00
To a Rope		0 - 05 - 00
To Expenses		1 - 10 - 00

* *Resolves*, 1704-5, chapter 55, and 1706-7, chapters 44 and 72.

† *Executive Records* of the Council, vol. 4, p. 500.

‡ *Mass. Archives*, vol. 123, p. 26.

To Joine worke	1 - 01 - 04
To Carting	1 - 01 - 00
	<hr/>
	16 - 01 - 00

Errors Excepted pr JOHN BARNARD.*

— *Mass. Archives*, vol. 40, p. 885.

The order in Council* for the payment of the allowance granted by this chapter was passed December 18, 1706, and the province treasurer's account† shows that it was paid.

Chap. 130. This chapter is from council records, vol. VIII., p. 277. It has not been found in the archives.

Sewall thus records the exercises on this occasion :—

"Friday, March, 7, 1707. Several Ministers prayed at the desire of the Court; began a little after Ten; Mr. Willard, Wadsworth, Bridge, Cohnan, Pemberton, C. Mather, Dr. I. Mather. Prayers were made with great Pertinency and Variety; I hope God will hear. Several pray'd that God would speedily, by some Providence, or one way other, let us know what might doe as to going against Port-Royal. Gave Thanks for the News of the 18. Indians kill'd and one Taken last Tuesday; which heard of just after the Appointment of this Day. Sung the two first staves of the 20th Psalm, York Tune, which I set, Mr. Willard used my Psalm-Booke. Left off about $\frac{1}{2}$ hour past Two. Council gave the Govr and Ministers a Dinner at Homes's." — *Diary*, vol. II., p. 181.

For the particulars of the killing and capture of the Indians at Cox's Head, the news of which arrived so opportunely, see the note to chapter 142, *post*.

Chap. 131. This chapter is from archives, vol. 108, p. 48. It is recorded in council records, vol. VIII., p. 278.

The following are those portions of the Governor's speech of March 5, 1706-7, referred to in the resolve which constitutes this chapter:—

"I am also Sensible with what readiness on the Part of the Souldiers, The Incursion was made into the French Plantations Eastward, two years Since, And what benefit we had thereby; I have now a New Neighbour in Those Parts, who will do what is possible to obstruct our fishery & Disturb our Trade, Their Port lying so proper & Advantagious for Such mischief.

I was Therefore willing to See you at This Time, And to have your advice if any thing may be done to prevent those Inconveniencies.

You are very good Judges of our Powers both of men & Money for any Expedition, And I Shall therefore freely refer it to your consideration, Assuring you that on my part I Shall to the utmost put forward the honour of Her Majestys victorious Armes, And the benefit & Security of These Provinces —

Your own Affairs at this Time of year, As well as the Season of action will demand of us soon to Determine, I Desire our Consultation & Resolve herein may be unanimous, And as Secret as may be That we may the better & more Successfully proceed." — *Mass. Archives*, vol. 108, p. 46.

The first action taken upon the Governor's message appears to be a vote of the House, which, together with its reception by the Council, is thus recorded:—

"March 8, 1706-7. A Vote pass'd in the House of Representatives That it is the Opinion of this House, That it is highly adviseable & expedient That an Expedition be forthwith made to subdue the French Enemy in Nova Scotia, & particularly to take the Fort at Port Royal, If all Things requisite for such an Expedition can be obtained:

Which was Read at the Board." — *Council Records*, vol. VIII., p. 278.

Sewall thus records this important proceeding in his diary:—

"*Feria Septima*, Martij 8^o 1707. . . . Deputies sent in for going to Port-Royal to take it; if what was necessary in order to it might be provided." — *Vol. II.*, p. 181.

The Council, on the tenth, responded to this vote by sending down the resolve which constitutes this chapter.

Thereupon "Mr Jewett, Mr Epes, & Mr Blagrove of the Representatives attended with a Message from the House, Desiring to know Whether his Excellency & Council have considered the Vote of the House sent up on Saturday last, And Whether there be an Inclination in his Excellency & the Board to the Expedition therein proposed." ‡

The Council then sent "A Message by Coll: Higginson & Mr Payne To Acquaint the House that the Govr & Council are in Earnest to proceed in all Things referring to the Prosecution of the War, that is within their Power for the Honour of her Majesty, the Subduing of her Enemies & the Quiet of her good Subjects. And pray that the Committ^{ees} may be settled & go forward forthwith." §

To this message the House returned another "Message by Cpt: Savage & Cpt: Somersby . . . to pray their Vote on Saturday last, If the Board have not acted thereupon, And then the House would proceed to consider of a Committee

And their Vote was accordingly sent to them." §

Having thus got possession of their vote of the eighth, the record shows that "The Vote of the Board for Appointing Committ^{ees} of both Houses was return'd from the Representatives with the Concurrence of that House thereto, & the Names of their Committee" § inserted therein, as shown in the chapter.

See chapters 136 and 142, *post*, and notes.

* Executive Records of the Council, vol. 4, p. 354.

† *Mass. Archives*, vol. 122, p. 282.

‡ *Council Records*, vol. VIII., p. 278.

§ *Ibid.*, p. 279.

Chap. 132. This chapter is from archives, vol. 101, p. 329. It is recorded in council records, vol. VIII., p. 279.

The order of the Governor and Council referred to in the preamble to this chapter is as follows:—

“Jan. 10, 1706-7. Ordered. That John Foster, El^m Hutchinson & Edward Bromfield Esq^s wth Lieut^o Colo Checkley and Captⁿ Ephraim Savage be a Committee to sort and take an Account of the Bills of Credit on the late Colony of the Massachusetts lying in the Treasurers hands.

And of such and so many of the Bills of Credit on this Province as are defaced, worn out & rendred useless, and to seal them up, the Colony and Province Bills, each by themselves in distinct papers & prepare the account thereof to be laid before the General Assembly at their next sitting in order to the disposal of them as they shall think fit, that the Treasurer may be discharged of so many.” — *Executive Records of the Council*, vol. 4, p. 365.

The account of the burning of the bills mentioned in this chapter is given in chapter 135, *post*.

Chap. 133. This chapter is from council records, vol. VIII., p. 280. It has not been found in the archives.

One entry only was made in the province treasurer's account* for the exchange of Blagrove's unendorsed bill, and also for the bill held by Jonas Bond, ordered to be exchanged by resolves, 1707, chapter 31.

Chap. 134. This chapter is from council records, vol. VIII., p. 281. It has not been found in the archives.

The order in Council† for the payment of the allowance granted by this chapter was passed April 17, 1707, and the province treasurer's account‡ shows that it was paid.

See chapter 83, *ante*, and note.

Chap. 135. This chapter is from archives, vol. 101, p. 331. It is recorded in council records, vol. VIII., p. 281.

The province treasurer's accounts§ show that he had credit for all the bills mentioned in this chapter as having been burned. The amounts are expressly carried out in pounds, shillings and pence, except the first, May, 1700, of which he says he had discharged himself in a former account, not now in existence. The charge of eight hundred twenty-two pounds and six shillings was increased to £863 8s. 3d. by including the five per cent advance, which was allowed separately in the other cases.

See chapter 132, *ante*.

Chap. 136. This chapter is from archives, vol. 71, p. 282. It is recorded in council records, vol. VIII., p. 286.

This resolve is substantially identical with the vote passed by the House on the eighth of March, as shown in the note to chapter 131, *ante*.

See the foot-note to this chapter on page 214, also chapter 142, *post*, and resolves, 1707, chapter 16, and notes.

Chap. 137. This chapter is from council records, vol. VIII., p. 282, and archives, vol. 71, p. 280.

Collins's petition was as follows:—

“Lyn March. ye 11th 706/7: ||

To His Excellency the Governour the Hon^{ble} Council & To ye Gent^lmen — of ye Hous of Represent^s now Seting in Boston

The Humble petition of Jacob — Collins: haneing lately lost his Thum in ye Cuntys seruiss as may at larg appere how & in wt^r maner by Leiu^t whittemors Certificat. now In M^r Jno pool^s handz:.

Most worthy Gen^lmen these are to Intreate ye Compassianat keare for a poore Cripl uerry much Dismabled by such a loss That I may hane sum allowance out of ye publick weh whil greatly oblige & Content ye Humble petition^r

JACOB — COLLINGS.” — *Mass.*

Archives, vol. 71, p. 280.

With this petition Collins filed the following certificate by Lieutenant Pelatiah Whittemore:—

“These may Certifie that Jacob Collins of Lynn, was thro^o an accident wounded whilest hee was a Souldier in her Maj^{ties} Service under my Command; his gunn accidentally going off, shott off his Thumb which wound was in part cured whilest in ye Service, by Doctor Jackson

Kittery Februry 7: 1706/7 @ Certified P PELATIA WHITTEMORE Liew^t.” — *Ibid.*, p. 281.

The above petition was read in the House on the thirteenth of March and on the fifteenth it was read again and the order which constitutes this chapter was passed thereon and sent to the Council for concurrence. On the seventeenth it was read and concurred in, and consented to by the Governor.

The order in Council† for the payment of this allowance was passed April 17, 1706, and the province treasurer's account‡ shows that it was paid.

* *Mass.* Archives, vol. 123, p. 30.

† *Executive Records of the Council*, vol. 4, p. 391.

‡ *Mass.* Archives, vol. 123, p. 29.

§ *Ibid.*, vol. 122, pp. 173, 236, 260 and 285.

|| *Sic.*

Chap. 138. This chapter is from council records, vol. VIII., p. 282, and archives, vol. 17, p. 108.

The petition referred to in the preamble to this chapter is printed in the note to chapter 104 of the resolves of 1705–6, together with the action of the Legislature thereon.

For the votes postponing action upon it see chapter 53, *ante*, and the foot-note on page 184.

It was read again in Council on the seventeenth of March, this year, and the order which constitutes this chapter passed upon it and sent to the House, where, on the next day, the order was concurred in. On the same day it was consented to by the Governor.

The balance remaining in the hands of the administratrix, as shown in her account, printed in the note to chapter 104 above mentioned, was £136 8s. 4d.

An additional, and apparently final, account was rendered by her June 8, 1710. On the fourteenth the judge of probate approved this account and ordered it to be registered.

The following is a copy of said account and of the decrees of the judge of probate thereon:—

“Midd^{le} // The additional acco^t of m^{rs}. Abigail Watkins adm^x to her late husband Capt John Watkins sometime of Charlestowne in ye County of Midd^{le}, deed intestate

The s ^d Accomptant stands accountable for the value of £136 ^{..} 8 ^{..} 4 in	
the Real Estate & P ^{ersonal} at rates of ye first Inventory, as appears	
by the balance of a former acco ^t made up before John Leverett	
Esq ^r —late Judge of prob. Feb. 28 th 1703	£ 136 ^{..} 8 ^{..} 4
/and adds now further Credit for a sume pd her p ^r Capt A. Belcher,	
a debt frō Virginia	£. 35 ^{..} —
/and more rent at times made of some roomes in the house	£. 6 ^{..} 10 ^{..} —
	<hr/>
	£177 ^{..} 18 ^{..} 4

And the s ^d Accomptant is allowed for her care & charges in provid ^g	
for the deeds children since the first Acco ^t was made up 3 ^d a smal	
sume, but considering the article of 50 ^d she was allowed there p ^r	
Judge Leverett I think fitt to allow no more now	£. 3 ^{..} — —
/Debts paid by ye Adm ^x due from the deed.	

To Joseph Lemon	£ 9 ^{..} 15 ^{..} —
To Capt Eliez ^r Phillips	£. 5 ^{..} 9 ^{..} 10
To Thomas Russell	£. 5 ^{..} — —
To Capt Rowse	£. 5 ^{..} — —
To a springfield man	£. 1 ^{..} 12 ^{..} —
To m ^r Atkins	£ — ^{..} 11 ^{..} —
	<hr/>
— And left in ye acco ^t s hand to pay a debt due to Capt Belcher	£. 27 ^{..} 7 ^{..} 10
And fees of Office, draw. Regist ^r & distribtng the P ^{ersonal} Estate 10/.	£. 8 ^{..} 9 ^{..} 11
	<hr/>
	£. 39 ^{..} 7 ^{..} 9
	£ 138 ^{..} 10 ^{..} 4

Ball now at 1st prices resting in the s^d acco^ts hands

in Realty	130 ^l
in P ^{ersonal} ty	8 ^{..} 10 ^{..} 7
	<hr/>
	£138 ^{..} 10 ^{..} 7

ABIGAIL WATKINS

Camb. 8th June 1710/
m^{rs} Abigail Watkins, Exhibited this acco^t & made oath thereto, and provid^d she produce Receipts for the several sumes allowed Abone, & yt the Children or there Guardians have no Just objeccon to make a Munday next, notice being now sent 'em yt are neare p^r m^r Jamison, I do allow this acco^t.

By FRA. FOXCROFT J. pro

/And the Eight pounds 10 / & 7^d I do order the adm^x to distribute viz^t 1/3 to reserue to herselfe & the residue to divide into six parts, allowing ye Eldest son two P^{ts} as ye law directs

By F FOXCROFT J P/

14th day, m^r Jamison p^dned the Vouchers for the paym^{ts} menconed in y^s acco^t, & informed me the interested had notice, so finally ys acco^t is ordered to be Registered/

F F. J Prob. &c.”—*Mid-*

delsex Registry of Probate (Files, No. 17,082).

Chap. 140. This chapter is from council records, vol. VIII., p. 284. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed April 17, 1707.

Chap. 141. This chapter is from archives, vol. 58, p. 251. It is recorded in council records, vol. VIII., p. 286.

The title-pages of Williams's and Colman's sermons, respectively, are as follows:—

“GOD in the Camp: | OR, | The Only Way for a People | to Engage the Presence of | GOD with their | ARMIES. | Delivered in a Sermon | Preach'd before His EXCELLENCY | and GENERAL ASSEMBLY, | at a Lecture in Boston, | March 6th. 1706. 7. | By John Williams | Pastor of the Church in Deerfield. | Rev. XIX 14. | And the Armies which were

in heaven, followed Him | upon white horses, clothed in fine linen, white & clean. | Holiness and Faith is the best Armour | folks can put on. *Durham*, Expos. | *Boston* in N. E. | Printed by B. Green. Sold by | Samuel Gerrish at his Shop near the | Old-Meeting-House. 1707.* | [Text] "Deuteronomy XXIII. 9. | When THE HOST goeth forth against thine | Enemies, then keep thee from every | WICKED THING." — *Library of Mass. Historical Society.*

"IMPRECATION | Against the *Enemies* of | GOD | Lawful and a Duty. | As it was Deliver'd in a *SERMON* | at the *Lecture* in *Boston*, before HIS | EXCELLENCY and the GENERAL | COURT, *March 20th.* 1707. | And now Publish'd at Their *Command.* | By Benjamin Colman, | Pastor of a Church in *Boston.*

Exod. xvii. 10. So Joshua . . . fought with Amalek : And Moses, Aaron, & Hur, went up to the Top of the Hill. v. 11. And it came to pass, when Moses held up his Hand, that Israel prevailed . . . v. 12 . . . And Aaron and Hur stayed up his hands ; . . . and they were steady until the going down of the Sun v. 15. And Moses built an Altar, & called the Name of it JEHOVAH-Nissi. (i.e. The Lord my Banner.) *Boston* in N. E. Printed by B. Green, for Nicholas Boone, at his Shop near the corner of School-house lane. 1707.*

[Text] "Psalm LXVIII 1. Let GOD arise, let his *Enemies* be scattered ; let them also that hate Him flee before Him." — *Library of Boston Athenæum.*

A sermon by Mather, entitled "The Doctrine of Singular Obedience," appears to have been the one referred to in this chapter. No copy professedly printed by order of the Council or General Court has been discovered ; but a pamphlet copy, printed by Timothy Green from a short-hand report, is in the library of the late John Carter Brown. A copy of the edition printed by authority is believed to have been purchased, at the Brinley-Library sale, for the Library of Congress ; but repeated applications have failed to produce a copy of the title-page, hence it cannot be certainly affirmed that this is the sermon referred to.

A warrant † for paying Nicholas Boone £3 6s. 8d., for two hundred copies of Colman's sermon, was ordered by the Council July 28, 1707, and another, ‡ for paying Samuel Gerrish for paper, and for folding and stitching Mr. Williams's sermon, was ordered December 24, 1707 ; but no express order has been found for printing a sermon of Mather's this year. The province treasurer's account § shows that Boone and Gerrish were paid for printing "several sermons."

Chap. 142. This chapter is from archives, vol. 71, pp. 283 and 284. It is recorded in council records, vol. VIII., p. 286.

The depredations of the Indian enemy in Massachusetts proper during the month of July, 1706, are described in the notes to chapter 149, *post*, and chapter 53 of the resolves of 1707.

As shown in the note to the former of these chapters Dudley had promptly informed Colonel Partridge of the attack on Dunstable on the third of July, and the latter had communicated the information to the Governor of Connecticut. No record of reinforcements from that colony, however, sent in response to this intelligence, has been discovered until after the attacks upon Brookfield and Hatfield.

On the twenty-third, tidings were brought to Colonel Partridge, by four Indian messengers || sent from Albany, that another body of hostile French and Indians was on the march towards New England. Only the day before, the News-Letter had announced the return of Captain William Tyng, who had been sent into the woods from Dunstable in pursuit of the enemy, and of Colonel William Tailor, who had been detailed ¶ to aid in putting the frontiers "in a good posture of defence." The former returned without having met any of the enemy, "who," continues the News-Letter, "are judged to have had a great many wounded men, with whom they are drawn off at some good distance."** On that day, also, Dudley embarked †† in the Deptford, man-of-war, for his seat of government in the province of New Hampshire.†† He did not set out on his return voyage until the thirtieth. §§

* This sermon was advertised in the News-Letter, No. 157, as for sale by "N. Boone."

† Executive Records of the Council, vol. 4, p. 446.

‡ *Ibid.*, p. 509.

§ *Mass. Archives*, vol. 123, p. 25.

|| "Aug. 2, 1706. Ordered. That Mr. Commissary General Belcher do reimburse Col^d Samuel Partridge the sum of twenty pounds, twelve shillings, which he paid for an Express from Albany by two Dutchmen to four Indians, the 23^d of July past, to Informe of the March of the French Indians towards New England.

J : DUDLEY." — *Executive*

Records of the Council, vol. 4, p. 303.

¶ "Very soon after [the third of July] by His Excellency's Order, the Forces under Col. Tyng, and Col. TAYLOR, marched in three Parties to follow the Rebels into the Woods, but after 3 days they all came in without any discovery. There is another march of 150 men Commanded by Capt. Tyng to lye out Ten Days to look after the Enemy, and in the mean time the remaining Forces are taking care to cover the Husbandry of all the Frontiers." — *Boston News-Letter*, No. 116.

** *Ibid.*, No. 118.

†† "July 22, 1706. His Excellency acquainted the Council, that he intended to embarque this day upon her Maj^y's ship Deptford for Piscataqua : —

Advised and Consented. That a Warrant be made out to Mr. Treasurer to pay to Mr. William Dudley the sum of Twenty pounds, for the support of his Excell^y's attendants and servants in his present Voyage to Piscataqua : and the Eastern parts of this Province for her Maj^y's service." — *Executive Records of the Council*, vol. 4, p. 297.

§§ "On Monday the 22^d Current, His Excellency our Governour Embarkt on Board Her Majesty's Ship the Deptford, for his other Government of New-Hampshire." — *Boston News-Letter*, No. 119.

¶¶ "Piscataqua . . . On the 24th. arrived Her Majesties Ship the Deptford from Boston Captain Stuckley Commander, with whom came His Excellency our Governour, who is now Sitting here in General Assembly." — *Ibid.*

§§ "Piscataqua, Aug. 1. On Tuesday the 30th of July His Excellency our Governour went on board the Province-Gally, in order to return to Boston for his other Government of Massachusetts-Bay." — *Ibid.*, No. 120.

Meanwhile hostile demonstrations by the enemy were made both on the western and eastern frontiers. On the twenty-third four men were killed and three taken captive near Exeter.* On the evening of the very day on which Dudley embarked in the Province Galley to return from New Hampshire there was one man killed and another wounded by the Indians at Wells;† and two days later, near Hampton Falls, a man was murdered and a lad carried away captive.‡

The public, however, had been seasonably warned by Dudley, who was not only solicitous that every precaution should be taken against surprise by the enemy coming overland from Canada, but that adequate preparations should be made to repel d'Herberville,§ whose powerful fleet had been looked for from day to day with serious apprehension. As early as the seventh of July, convinced that a hostile force was on the march from Canada, he had written to his council of New Hampshire "signifying that the enemy were designed for Piscataqua, and that we might expect them every hour, ordering that all people go to Garrison at their utmost peril, and that one half of the Militia at least be in readiness to march in a minutes warning, &c."||

Upon this intelligence the following order in council was passed on the eighth: —

"Ordered that Mr. Secretary write to the several Captains of this Province to command all people to Garrison at their utmost peril, and every Captain have the one half of their Companies in readiness for a march upon a minutes warning." — *Provincial Papers of New Hampshire, vol. II., p. 479.*

A body of men enrolled under the command of Lieutenant-Colonel Hilton having been detained nearly a month for want of rations, stringent measures were taken by the Council, on the ninth and tenth, for providing subsistence for them, as follows: —

"[9th] . . . Whereas there is certain intelligence that the enemy is near upon us in a great body, and there being orders for the marching out of sixty men in pursuit of the enemy, and provisions being wanting for the fitting out of the said sixty men; —

* Penhallow describes the attacking party as "French Mohawks," and says they killed four of the English, wounded one, and carried three captive; so that out of ten, only two escaped; that two of the prisoners ("Edward Hall and Samuel Myals") subsequently returned home, after subsisting, for three weeks together, upon only "a few lilly roots and the rhines of trees." The *News-Letter*, however, gives the following account: —

"Piscataqua, July 25th. On Tuesday the 23d. Currant eleven men about a Mile from Mr. Hilton's Garrison at Exeter moving in a Field, were insulted by about 40 Indians. One of the two that stood Centinal fired at them, but the other 9 being hard at work, were intercepted from their Guns, of which 2 in the whole were slain, one desperately wounded, two more made their escape, and six wanting, which are supposed to be either kill'd or taken Captive.

Several Companies of our Forces went in pursuit of the Enemy, who about a Mile from the place where they did the mischief, gave a great Shout, and separated themselves, so that none of them could be found." — *No. 119.*

"July 23, 1706. About Twenty of the enemy fell upon ten Exeter-men as y^e were mowing in a field betwixt Exeter & Lampriil-River. Four of our men were killed in the place. viz. Rich: Matoon & his son Hubertas, Robert Barber, & Sam. Pease. Three Carried Captive, viz. Edward Hall, Saml Mighill, & a Melatto. Three escaped viz. Joseph Hall, John Taylor sorely wounded but Recovered, & another. This was done about an hour or two bef: sunset. The two Englishmen Carried Captive are come home again." — *Pike's Journal, in Proc. Mass. Hist. Soc., 1875-1876, p. 143.*

† " . . . And on the said day [the thirtieth of July] at evening there was a man kill'd at Wells & another wounded by the skulking Indians, pursuit was made after the Enemy but could not be found." — *Boston News-Letter, No. 120.*

" . . . About the same time [the first of August] Sergeant Atkinson of Newberry, & another souldier, were slain hard by a Garrison at Wells." — *Pike's Journal, p. 143.*

‡ "Hampton, Aug. 1. This day there was a man kill'd near the Falls, and a Lad taken by the Indian Enemy."

We had a Company out in quest of them in 10 minutes after the mischief was done, but the Enemy escap'd, & left some things behind them, Major Smith is still out in the Woods with 100 men in Search of them." — *Boston News-Letter, No. 120.*

"Aug. 1, 1706. Benj: Fifield sen: of Hampton, Coming out of his pasture on horse-back, was slain by an Ambush of 7 or 8 Indians, & a Lad his Kinsman carried away." — *Pike's Journal, p. 143.*

§ Besides the action taken by the council of New Hampshire May 8, 1706, as printed in the foot-note on p. 569, *ante*, the following records of meetings of the board on the fourteenth and twenty-third show that orders for preparations passed the previous year were renewed and put in execution upon receipt of subsequent letters from the governor: —

"His Excellency the Governours Letter dated the 10th instant, relating to news from the West Indies about the French Fleet, and about tenn men more to be posted at her Majesty's Fort Wm. and Mary, at New Castle, for a steady watch &c. and that Colonel Packers House in Portsmouth be forthwith fortified in good form, to receive the women and children, &c. was communicated at this Board.

Ordered, that the Treasurer forthwith provide provisions for the tenn souldjers last Imprest for her Majestys service at her Majesty's Fort William and Mary.

As to the fortifying Colonel Packers house, the Gentlemen of the Council was pleased to Inquire of the Secretary whether there was not some former order of Council relating thereto; and upon searching the Council Book, found there was an order of Council of the 20th of September last, for fortifying the said Colonel Packers house.

Ordered, that Mr. Secretary send a copy of the said order of Council to his Excellency, that his further pleasure may be known therein." — *Provincial Papers of New Hampshire, vol. II., p. 477.*

"His Excellency the Governours Letter, dated Boston, 20th May 1706, was read at this Board, signifying that Capt. Redknapp had attended his Excellency with papers, referring to the fortifying Colonel Packers house, and that he had sent the same to the Secretary to be communicated to the Council, and then to be delivered to Capt. Philpps &c. (as on file) which papers were accordingly Communicated at this Board." — *Ibid., p. 478.*

|| *Ibid., p. 479.*

Ordered that Mr. Secretary immediately send out his warrant for the Impressing of two Barrels of pork, and one hogshead of Biskett, for supplying of the said sixty men. And that the officer have power to search all houses or ware houses within this Town for the finding of the same; and also to impress three men and a boat to carry the said provisions to Lieut. Col. Hiltons." — *Ibid.*, p. 480.

"[10th] . . . Pursuant to his Excellency's Letter of the 7th of July instant, 10 of the clock ante meridiem,

Ordered that the Selectmen of the town of Hampton do forthwith send a Barrel of pork to Lt. Col. Hilton's house, out of their Town Stock of provisions for scouting; as he shall see meet, and that the Secretary issue forth his warrant to the Selectmen accordingly." — *Ibid.*, p. 481.

These measures were rendered imperative by the failure of the inhabitants to respond to the repeated calls of the Governor with the promptness and liberality which a realizing sense of their peril would induce,* owing, doubtless, to the fact that for several weeks they had enjoyed a respite† from the murderous assaults of the savages, which were continued in Massachusetts.

Dudley's apprehensions of the approach of the enemy were first excited by reports from Canada, received by him from Albany about the seventeenth of June, as shown in his letter of that date printed in the note to chapter 6, *ante*; and the appearance of the enemy at Dunstable on the third of July seems to have impressed him with the belief that these marauders were pioneers of the expected army now close at hand. Hence his despatches to Partridge, and through him to Governor Winthrop, which induced the latter to send, in addition to the sixty men‡ already gone forth from Connecticut to defend the frontiers in Hampshire County, fifty men§ with dogs, to scout the woods.

Lieutenant-Colonel Hilton, who was charged with the duty of keeping up a regular scout in New Hampshire, known as the "province scout," had been, as previously intimated, greatly obstructed in that enterprise for want of provisions, and, after having received the above-mentioned orders for marching sixty men, was obliged shortly to disband his force (which he had increased to sixty-four men), for the reasons given in the following record of the council held at New Castle on the sixteenth of July:—

"Lt. Col. Hilton appeared at this Board, and being desired by the Lt. Governour to give an account to this Board relating to the state of the Province and about the Enemy, &c.

Answered, That the Garrisons were all in good order and as to the little Scout, alias Province Scout, he was forced to leave it off, there being eight of the soldiers from Hampton, and the town of Hampton had no provisions for them as the law directs. And as to the sixty four men which he lately marched in pursuit of the Enemy, they are now disbanded by reason he could have no provisions for them, without which he is not capable to goe any more in pursuit of the Enemy." — *Ibid.*

The next day the house of representatives was called upon to take action in this emergency, when the following proceedings took place:—

"Mr. Secretary Story was sent as a message to call the House of Representatives to this Board, who accordingly came, and his Honour the Lt. Governour made the following Speech, in hæc verba sequen (viz.):

Gentlemen,—The pressing occasions of the warr, both by sea and land, prevents his Excellency's meeting you in person at this present session.

By his Excellency's direction, I am come into this his Majesty's Province, and am to acquaint you that it is absolutely necessary for the raising of money for the payment of Debts due from the Province, and a supply for the service of the warr.

The Enemy surrounding and pressing upon us, and for want of a fund in the Treasury for supply of provision, &c., there can be no march against the enemy, and judge not less than five hundred pounds, besides payment of debts, is requisite; your proportion of Rates

* "At a Council held at Portsmouth on Monday, the 17th June, 1706. . . .

His Excellency's Letter of the 10th June, 1706, relating to Lt. Colonel Hiltons incapacity of Scouting for want of provisions, and that there was not ten soldiers sent to the Fort according to his Excellency's orders, and relating to Col. Packers house &c. was communicated at this Board.

Ordered, that in case the Select men of Hampton and Exeter have not their stock of provisions for scouting ready in four days time, from the date hereof, to be delivered to the Capt. of the several Towns when called for, that they may be sent for to the next Council Board in order to be proceeded against as they shall deserve." — *Provincial Papers of New Hampshire, vol. II., p. 478.*

† "*Piscataqua, July, 12th.* . . . No late impression of the Enemy, but dayly expected; our Frontiers are in readiness to receive them: several Tracts of the Enemy are dayly seen." — *Boston News-Letter, No. 117.*

The raid upon Kingston some days earlier, mentioned in the note to chapter 149, *post*, was unattended by any personal assault.

‡ Winthrop's letter of the fourth of July, printed in the note to chapter 4, *ante*.

§ By the following note by the editors of the Winthrop Papers it would seem that Governor Winthrop approved of sending additional reinforcements to Partridge although apparently they were not actually sent until August:—

" . . . Major Whiting having advised further assistance to Partridge, Fitz-John Winthrop authorizes it by a letter to the Council of July 12, in which he says: 'My present thoughts are more in favour of our owne frontiers, Symbury and those upon that line, w^{ch} the enemy have an easy access to and, being baffled below and Hampshire garrisoned, may make an adventure on our side.' " — *Part I., p. 339.*

"*Hartford, August 3.* The Towns in the County of Hampshire being greatly infested by the Skulking Indian Enemy: We are just sending out 50 Men with Dogs, who are to divide into small parties, and range the Woods on both sides the River, if possible to discover and annoy the Enemy." — *Boston News-Letter, No. 122.*

equal to your neighboring Government this year, would Am^e to two thousand two hundred pounds.

I acquaint you by reason of Col. Hilton's having not a supply of provisions, he cannot march for security of the Province, and there is no credit in the Treasury.

I present you with his Excellency's Letter as to this weighty affair, not doubting of your readiness and compliance therewith and dispatching of so great a concern, the preservation of her Majesty's subjects depending thereon; and nothing shall be wanting in promoting the same by me.

Colonel Hilton was sent for to this Board to give an account of what provision was needful for the army, and was ordered to go to the House of Representatives and acquaint them with the same." — *Ibid.*, vol. III., p. 324.

On the twentieth the Council passed a further order for the subsistence of Hilton's force, as follows:—

"Ordered that the Treasurer supply Lieut. Colonel Hilton from time to time, with such quantities of provisions, ammunition, &c., as he shall have occasion for in marching with any forces against the Enemy; and that the same be paid for out of the 100£ Act, Entitled an Act for supply of the forces with provisions to march against the Enemy." — *Ibid.*, vol. II., p. 482.

After the arrival of Governor Dudley plans for a general scout for the whole province seem to have been matured, and Hilton* was placed in command as colonel. On the thirtieth, just before the Governor's departure, the council passed the following additional order:—

"There having been Circular letters to the Selectmen of every town in the Province to raise provisions after the Rate of ten pounds for every hundred men forthwith for the Service, it is now Directed that upon receipt of Letters from the Selectmen that the provisions are raised according to the said order, that the Council in the absence of the Governor do from time to time dispose the said provisions to be expended by the general Scout under the command of Colonel Hilton, in assistance of the service, till the same be expended; and the Towns severally thereby brought to a just equal expence, when the Towns may return to their former methods of supply, according to the Act of Assembly in that case provided." — *Ibid.*, p. 486.

The General Court of Massachusetts stood prorogued from the thirteenth of July to the seventh of August for the trial of the persons charged with illicit trading with the enemy, and at the opening of the session the Governor declared "The Trouble that I am in by the Impression of the Enemy every where as well as the season of the year will not allow a Long session."†

During the month of August, however, along the whole frontier, only one other murder by the savages was reported, and this at or near Dover.‡ On the western frontier, so far from being called upon to repel the enemy, the military leaders there differed in opinion §

* According to Belknap (vol. I., p. 340), "Hilton was so brave and active an officer that the enemy had marked him for destruction; and for this purpose a party of them kept lurking about his house," and he then proceeds to narrate the particulars of the attack near Exeter on the twenty-third, in which, he says, the enemy "missed the major for this time."

† Mass. Archives, vol. 108, p. 45.

‡ Aug. 10, 1706. Nicholas Pearle [Perley] was slain by the Indians in the day-time, at his Cave some miles above Oyster-River, where he had dwelt night & Day, winter & summer, from the Last breaking out of the war, precisely three years, tho' was in the very wake & way, where the enemy used to pass. He was a man of strange Condid; & would not be persuaded to leave his place." — *Pike's Journal*, p. 143.

"Piscataqua, Aug. 15. On Saturday last, the Sculking Indian Enemy kill'd a man at Dover." — *Boston News-Letter*, No. 122.

§ "For the Gentlemen of the Council & Comitte of Warr, at Hartford.

NEW LONDON, Aug. 10th 1706.

GENTLEMEN, — I have your letter of the 8th instant by Mr. Biglow and those from Coll: Partridge, and am sorry for those persons kild at Hatfield & Brookfield. I doe well approve of sending those 50 men up the river, and tis well directed to range on both sides to North Hampton and Hadley, but I doe not agree to the tyme limited till a farther consideration of the necessity of it. . . ." — *Letter by Fitz-John Winthrop: Winthrop Papers, part V., p. 340.*

"HARTFORD, August the 12th 1706.

HONABLE SR, — We have yours of the 10th instant to us directed. As to the time your Honr intimates that the souldiers sent to range the woods had, it was not to exceed three weeks; but did not ord^r them to keep out so long & shall call them sooner if your Honr orders. . . ." — *Reply to the above by the Council of Connecticut: Ibid., p. 341.*

"HARTFD Augth 24. 1706.

. . . I pray a speedy answer to my last lett^r. Truly I apprehend the circumstances of matters as aforesd admits of serious considerations of the premises & some thorough redress; else as we now are infested we may be so prepetually, till by peace-means we be ruined. It is not for me to prescribe to yor Honors, but to pray to God to direct you, & am yor most humble servt.

SAMLL PARTRIDGE.

We earnestly desire Capt Hall & men be stayd here, till Indian harvest is over, at least." — *Letter to Fitz-John Winthrop: Ibid., p. 344.*

Governor Winthrop, in a letter to the Committee of War at Hartford on the twenty-ninth of August, thus comments upon the above request of Partridge:—

" . . . I can not consent to Coll: Partridge his desire of our sould^rs till their harvest is over; and, indeed, I am hurried betwene two great difficulties: the way to doe our part for their preservation, and the excessive charge it will necessarily bring upon us. And I am the less inclined to continue our forces, as they seeme to impose upon us, rather than any real necessity they have of our help, that Government being yet full of men and money; and they have not yet applied to the other Governments for help, who are under the same tye of obligation to assist them. . . ." — *Ibid.*, p. 345.

as to employing the last detail of scouts from Connecticut for the whole period of three weeks, which was the prefixed limit of their time of service; but there, as elsewhere upon the border, though scouts were kept constantly moving along the whole line* no record of even an attempt at invasion during the rest of the year, by the enemy in force, has been discovered, and only one additional murder† is recorded.

That the successive attempts of the enemy this summer to make "an impression upon the English frontiers" were disastrous and discouraging appears from the following item in the *News-Letter*:—

"... The *French* say that the Indians who made a Descent on our Frontiers this Summer, finding them so lined with men, they were constrained to throw away their Arms, Blankets, &c. for their more speedy flight, and returned again without so much as a flap to cover their nakedness."—*No. 136. November 18 to 25, 1706.*

The hopes of continued quiet were strengthened by tidings from Colonel Schuyler,‡ at Albany, that "the covenant chain" with the Five Nations had been renewed. There were now only two places within the territory claimed by the English that Dudley feared the enemy might occupy as convenient bases of operations against the frontiers; and these were Cowassie on the Connecticut River, and Norridgewalk in Maine. An expedition against the former would require the cooperation of Connecticut; but as the government of that colony could not be persuaded that such an enterprise was judicious,§ or indeed that the enemy were assembled there, as Dudley imagined, no attempt was made in that direction.

Norridgewalk was conveniently accessible to the soldiers of New Hampshire, and since, if it should prove to be such a harbor for the enemy as Dudley suspected, its destruction would effectually prevent further raids from that quarter, he determined to call upon the militia of the eastern frontiers to engage in attacking it at the proper time. Meanwhile they were employed in scouting nearer home.

The New Hampshire scouting parties, like those sent from Massachusetts under Tailer and Tyng during the summer, appear to have returned without finding the enemy.

In the autumn, Dudley, evidently deeming the time ripe to take active measures for a demonstration on a larger scale, proceeded to Piscataqua "to visit the frontiers and reform the forces there,"|| leaving the administration of the government of Massachusetts in the hands of the Council;—Povey, the Lieutenant-Governor, having gone to England.

Since this errand of Dudley to his New-Hampshire government was for a military purpose the proceedings were not a matter of public record, except by the adjutant, or the secretary of war, for the time being, or by the commanders of small expeditions, in the journals usually kept by them; and hence it has not been ascertained what schemes were projected by Dudley and his advisers there, neither has any record been found of the departure or of the arrival of scouting parties, nor of any conflict with the enemy. The Governor set out on his return to Boston on the twenty-fourth of October,¶ having seen the muster-rolls allowed for the commands of Colonel Hilton, and Captains Dow, Phipps and Tuttle, and an order passed for paying them.**

The General Court assembled, in the third session, on the twenty-third of October, according to the last prorogation; but the Governor not having returned, the session was

* "Sept. 3, 1706. An Account was presented by John Phillips and John Leverett Esqrs of Disbursements on their Riding on the Frontiers, & for their servants and horses, amounting in the whole to six pounds five shillings & eight pence. . . . Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of six pounds five shillings & eight pence to the said John Phillips and John Leverett accordingly."—*Executive Records of the Council, vol. 4, p. 314.*

† "Paid John Phillips & John Leverett Esqrs for Disbursements on their Riding on ye frontiers & for yr servants & horses 6, 5, 8."—*Mass. Archives, vol. 122, p. 281.*

‡ "Piscataqua, Sept. 12, Several of the Skulking Indian Enemy have lately been seen, a Company went in pursuit of them, but could meet with none."—*Boston News-Letter, No. 126.*

§ "Piscataqua, Nov. 15. . . . Last week also there was one Nathaniel Willfed kill'd at Sacho (by some Skulking Indians,) who had been out some distance from the Fort."—*Ibid., No. 135.*

¶ "Aug. 16, 1706. . . . Wee have now with us the sachems of the Five Nations, who wth their attendants are above 150 Indians. They have renewed the covenant chaine wth us & all the English Governments, w^{ch} hath been no small trouble & charge to us; but I heartily hope it will be of great & good consequence to all o^r English plantations, not only for this p^{re}sent tyme of war, but always for y^e future. . . ."—*Schuyler to Partridge: Winthrop Papers, part V., p. 345.*

§ Governor Winthrop, in a letter to the Committee of War at Hartford, on the twenty-ninth of August, thus refers to the proposed expedition to Cowassie:—

"... I shall as unwillingly consent to raise men for that designe to Coasset, w^{ch} to me has noe prospect of success. If, however, it shall be agree'd upon as proper for her Maj: service & the publick safety, there are yet several things to be considered, viz: a chief officer and the way of their supply of provision & ammunition, w^{ch} must be well considered, but does not appear to be of any moment to Gov^r Dudley."—*Ibid., p. 346.*

|| "Oct. 11, 1706. His Excellency acquainted the Council that he intended to set forth this day on a Journey or Voyage to Piscataqua, to visit the Frontiers and reform the Forces there &c; and Desired the Gentlemen to take care to keep all things in order in his absence.

Advised and Consented, That a Warrant be made out to the Treasurer to pay to M^r William Dudley the sum of Twenty pounds for the support of his Excellency & attendants on his Voyage."—*Executive Records of the Council, vol. 4, p. 322.*

¶ "Piscataqua, Octob. 25. On Thursday the 24th Instant, His Excellency our Governour went from hence for His other Government of the Massachusetts Bay."—*Boston News-Letter, No. 132.*

** "At a Council held at Portsmouth the 10th day of October, 1706, The Muster Roll in two sheets, amounting to 175:1:0, is allowed and ordered to be paid to Colonel Hilton for himself and the Exeter men; To Captain Dow on behalf of the Hampton men; To Capt. Phipps, on behalf of the Portsmouth men; To Capt. Tuttle, on behalf of the Dover men; and for the saving charges of travel and transportation, the Treasurer is ordered to give an order upon the Constables for the whole sum, with a List of the names of the soldiers and their several sums, that the C^l severally may make just payment thereof."—*Provincial Papers of New Hampshire, vol. 11., p. 488.*

adjourned from day to day until the twenty-eighth, when His Excellency addressed the Assembly in a speech in which the following passages occur:—

"Gentlemen, I am now to acquaint you That the Summer is past & by the Favour of Almighty God, We have been happily preserved from the Inroads of the Indian Enemy, Notwithstanding their great Distance of Settlement from us (being gone over to the French*) has given them Advantage to come with more Secrecy upon the Frontiers, Weh has very much depended upon our good Intelligence of their Motions towards the several Parts, & our Readiness to receive them, weh nevertheless has greatly aggravated the Summer Charge: But I should be wanting in my Duty to her Majesties good Subjects, If I did not acknowledge & Recommend to you the Readiness & Cheerfulness of the Soldiers in all Parts, both of the standing Forces & of the Militia to march at the shortest Warning, As well as of your Readiness to support the Charge, . . . And that We may not burthen the Province with any long & unnecessary Attendance here, I shall give you the present State of the Forces in the several Parts, & desire your Advice therein." — *Council Records, vol. VIII., p. 246.*

The third session was not prorogued until the seventh of December. During the continuance of that session the murder at Saco, mentioned in the News-Letter of the fifteenth of November, was the only known instance of bloodshed by the enemy.

The second day after the prorogation Dudley began to devise measures for a winter expedition against Norridgewalk, to consist of two hundred men from Massachusetts and forty from New Hampshire, as shown in the following letter:—

"Boston, December 9th, 1706.

DEAR SR.

I have determined to visit Norridgewalk the 10th of January next, and accordingly am raising in this Province two hundred men to be commanded by Col. Martch, if his health will permit, whom alone I have acquainted besides yourself of my intention—therefore desire it to be secret,—and must expect forty men of your Province, which I would have volunteers, otherwise they must be drawn men to be commanded by some very good officer; and if Col. Martch fail me, I must expect your service to command the whole party.

The men must be well fixed, cloathed and shod with snow shoes in good order. Communicate this order to the gentlemen of her Majesty's council as soon as may be. Attend them yourself to concert the matter, that they may provide victuals and blankets if need be. Our last departure will be from Casco Bay. Desire the Gentlemen of the Council to keep it secret, lest the noise of it get into the woods.

I am yr. affectionate uncle,

J. DUDLEY.

To the Hon. Lt. Col. Hilton.—*Farmer and Moore's Coll., vol. I., p. 248.*

On the sixteenth Dudley wrote again to Hilton, who communicated the letter (which is still preserved†) to the council. Its purport appears in the following entry in the records of the council, under date of the nineteenth of December:—

"His Excellencys Letter dated Boston the 16th Xber, 1706, relating to the preparing forty souldjers to march with others to Norridgewack, and to be fitted with ammunition, Snow-shoes, provisions, &c. for thirty six days, and Mr. Waldron be desired to assist therein, &c. was read at this Board.

Ordered that the Secretary write to all the Council to meet on Saturday next, 12 of the clock, at noon, and to write to Lieut. Col. Hilton to be present at that time." — *Provincial Papers of New Hampshire, vol. II., p. 491.*

On the twenty-first the council again met, and their proceedings are shown in the following extract from their records:—

"Pursuant to an order of Council of the 19th instant, Lieut. Col. Hilton, being sent for to appear this day at the Board accordingly came, and two letters from his Excellency directed to the said Lt. Colonel Hilton, one bearing date the 9th instant and the other the 16th, were read at this Board; both which Letters related to the obtaining of forty volunteers in this Province, to join with two hundred of the Massachusetts, and to be commanded by the said Colonel Hilton, &c. to march upon an expedition to the Eastward against the common Enemy.

The Gentlemen of the Council having discoursed the said Lieut. Colonel Hilton about what might be wanting towards furnishing the said volunteers, he acquainted this Board that as to Snow-shoes and Moccasheens, there were enough; and by the advice of this Board, the said Lieut. Colonel Hilton did say he would goe to Boston, and discourse his Excellency fully relating to the said march.

Ordered, that Lieut. Colonel Hilton be paid forty shillings out of the Treasury for his riding Charges to Boston, to discourse his Excellency in the above affair, and that the Treasurer be desired to advance the same." — *Ibid., p. 492.*

The result of Hilton's conference with Dudley appeared some weeks later in the following entry of an order on January 13, 1706-7, by the council of New Hampshire, which shows that the movement against the Indians at Norridgewalk was already fairly under way, and that Casco Fort was made the base of supplies:—

"Ordered, that there be a Shallopp forthwith imprest with three men in order to transport the Stores and provisions for Col. Hilton and Souldjers to Casco Fort, upon an Expedition to the Eastward against the common Enemy; and that the said Shallopp be brought to Mr. Treasurers' Wharf, to take in the said Stores and provisions; and that the Secretary send out his warrant directed to James Levitt, Constable, to Impress the same, and to sail with the said Shallopp to Casco, and land the said stores at Casco Fort." — *Ibid., p. 495.*

* See foot-note, p. 420, *ante*.

† History of the Dudley Family, p. 192.

The following order, preserved in the Massachusetts archives, endorsed by Dudley, apparently on the fifteenth of January, on a copy of a letter from him to Sampson Sheafe, shows that by that date March had declined to command the expedition and that Hilton had been selected in his place:—

“S^r

Draw a Comission for Lev^t Colonel Hilton to Comand the forces of both provinces in the present Expedition to Norrigwalk. & let M^r Commissary have it presently to send away.
Wedsday.

[Addressed] To M^r Secretary Addington
Boston.” — *Vol. 51, p. 152.*

your serv^t

J DUDLEY

Neither Hilton's commission nor his instructions on this occasion have been found; but the following extract from Farmer and Moore's Collections,* in which, apparently, they quote from the original commission, shows the destination of the forces and the position assigned to Hilton:—

“This commission as ‘Chief Commander of the new rayssed forces, within the Provinces of the Massachusetts Bay and New-Hampshire, for Her Ma^{ty}'s service in an expedition to Norridgewock & other the Eastern parts against the French and Indian enemy and Rebels; and Captain of the Company rayssed for that service in the Province of New-Hampshire,’ was dated January 15, 1706-7.”

How soon after receiving his commission Hilton began his march does not appear, unless the twenty-first of January, given in an equivocal manner by Penhallow, may be taken as the true date. Hilton's progress was interrupted by the mildness of the weather, which prevented the formation of ice of sufficient thickness to bear the party, and so, after marching several days, he turned back, reaching Black Point on the seventh of February. Here, following a trail in the woods, he came upon a wigwam in which he found and killed “2 stoute men & an old Squaw,” and captured a young squaw and two children, whom he brought away.†

On the twelfth of February according to the News-Letter,‡ but on the thirteenth according to Dudley,§ Hilton had returned from the expedition “with all his men in good health.”

Chapter 130,
ante.

Upon the promise of being protected by her captors from the vengeance of her people, the squaw taken prisoner at Black Point divulged to them the lodging-place, near Sagadahoc, of a company of the hostile savages. Upon receiving information of this from Hilton, in an interview at Boston, on the thirteenth, Dudley suggested to the Council that Hilton be immediately sent upon another expedition to attack this body of the enemy. The action of the Board thereupon is shown in the following entry in the executive records of the council:—

“Feb. 13, 1706-7. His Excellency acquainted the Council, that he had been attended by Col^d Hilton commander of the Forces intended on an expedition to Norridgewock, who say^s they were obstructed in their proceeding for want of Ice to march up the River, and having in their Return met a small party of the Enemy, they are informed by them, that the Eastern Indians are drawn down to the sea side, and about one hundred family's of them are now on Arowsick Island in Kennebeck River and at Sagadahock in very great distress for want of Provisions.

And the sd Col^d offering his service wth one hundred and twenty men & sloop's & Whale-boats to attend them to enterprize an expedition against the sd Indians.

* Vol. I., p. 248.

† Pike's Journal, p. 144. Penhallow (p. 49) says he killed four and took “a Squaw alive with a Japoose at her breast which he preserved.” Dudley (in his letter to Partridge, February 13, 1706-7: Winthrop Papers, part V., p. 369) says, “In their return in a circle, as I had ordered y^m, they fell upon seven of the enemy, three men, two women & two children (one of y^m Capt^m Sam, a considerable rogue) & have destroyed them all except the children, w^{ch} they brought home.”

‡ The following is the account given in the News-Letter of the seventeenth of February:—

“... in their return betwixt Casco Bay and Wells, they discovered a Track which they followed until they came to a Wigwam, wherein were two Indian Men of the Eastern Rebels, viz. one called Capt. Sam, the other Alexander, both known Notorious Rogues, with two Squaw's and two Children, the two men and one of the Squaws were kill'd, the other Squaw and two Children they took Prisoners. There was another young Fellow that belonged to the Wigwam who was not within it, that took to his Heels upon seeing our people, and they ran after him for two days, at last they came up with one of the Two Doggs he had with him and kill'd it, the other Dogg they heard squeel in the night, and our people supposed he also kill'd that for fear of discovering him; in our peoples pursuing him he threw away his Blanket, Breeches and Powder Horn, to further his flight; and that night a Snow falling, and being stark naked, 'tis judg'd he could not live.” — *No. 148.*

Further particulars of this affair appear in the following order in Council for a warrant to pay the premium allowed by the act (Province Laws, 1706-7, chapter 7, § 1) for the killing of hostile Indians:—

“May 3, 1707. It being made certain as well by the Scalps brought in, as the Oaths of Capt^e Samuel Chesley, Samuel Dudley and Arthur Bragden, that there were two Men of the Indian Enemy or Rebels kill'd in fight by the forces under Col^d Winthrop Hilton being Volunteers under pay, in their return from Casco Bay in February past, one of them being kill'd by Capt^e Chesley himselfe.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the sum of Forty pounds to the sd Col^d Hilton to be equally shared to himselfe, Officers, and Souldiers proportionably to their Wages as a premium or Reward for their good service, pursuant to the Act of Encouragement.” — *Executive Records of the Council, vol. 4, p. 396.*

The province treasurer's account shows that the above amount was paid. — *Mass. Archives, vol. 122, p. 280.*

§ No. 148. The Rev. Joseph Green also records in his diary on the twelfth, the “News of six Indians killed and taken at ye eastward by our army.” — *Essex Institute Hist. Coll. vol. X., p. 75.*

¶ Letter to Colonel Partridge, Winthrop Papers, part V., p. 369, and Executive Records of the Council, *ut supra.*

Advised, that his Excellency be pleased to encourage & set forward the sd expedition; and that all things be supplied accordingly. Also that Mr Commissary present Col^d Hilton with six pounds for his Travail and extraordinary expences." — *Vol. 4, p. 378.*

On the same day Dndley wrote to his council of New Hampshire, requesting them to make the necessary preparations for Hilton's voyage to Kennebec, whereupon, four days later, they passed the following order:—

"Pursuant to his Excellency's Letter of the 13th instant, relating to Colonel Hilton's march to the Eastward:

Ordered that the Treasurer provide and furnish Colonel Hilton and thirty soldiers with provisions and ammunition for forty two days, according to Establishment proper for an Expedition to the Eastward against the French and Indian Enemy; and what apparel the soldiers may be furnished with, the value thereof is to be deducted out of their pay.

Ordered that John Abbott with his Shallopp be forthwith imprest, and two able men, to attend Colonel Hilton and his orders upon an Expedition to the Eastward against the French and Indian enemy, and that the Secretary issue forth the his Warrant directed to James Levitt, Constable, accordingly." — *Provincial Papers of New Hampshire, vol. II., p. 497.*

On the nineteenth, "His Excellency acquainted the Council, that upon further information of the state of the Enemy at Kennebeck River &c^a he had ordered an addition to the forces under Col^d Hilton intended on an expedition thither, and another sloop & more Whaleboats to attend them, the Briganteen Hope, three open Sloops and fourteen Whaleboats, being taken up & equipped on that service."*

For this service there were engaged as transports (besides the shallopp, above mentioned, and a second sloop Endeavor, Jacob Parker, master†) the sloops Endeavor, Gideon Lowie,‡ master,§ the Speedwell, Elisha Corney, master,|| and the Sarah and Mary, Stephen Akerman, master.¶

Lieutenant-Colonel John March, who served on this expedition, at the head of a force of between seventy and eighty men, "in conjunction with Lieutenant-Colonel Hilton," was of Newbury; as also were the masters of some of the sloops. Hence it seems probable that March with the companies under his command sailed from Newbury,** and that Hilton sailed from Piscataqua.

On the tenth of March the following report of the expedition appeared in the News-Letter:—

"Boston, On *Thursday* the 6th Currant, by an Express from Col. Hilton, his Excellency received an Account of the Success of the Forces lately sent into the Eastern parts, viz That on *Tuesday* †† the 4th Instant, about one a Clock in the morning, the Colonel with a Detachment of the Forces under his Command, fell upon a party of the Indian Rebels, being nineteen in number, at a place call'd *Cox's Head* within *Kennebeck* River, whereof nine were men, most of them infamously noted for their bloody Villanies, *Mamouson, alias Pemaquid Tom*, being one of the Company; The rest were Squaws & smaller Indians.

Eighteen were kill'd on the spot, a Boy about Eight years old was saved alive.

Through the Favour of Almighty God, not one of ours was kill'd or wounded; Only in the Action, the Squaw lately taken by Col. Hilton in his former Expedition, unhappily received a Wound from one of our men by mistake.

This Accident is very much Lamented, for that the Squaw had been very serviceable in making known the places of the Indians Residence: She is sent to Piscataqua for Cure; and is in a hopeful way of Recovery.

Col. Hilton was again Embarking the Forces on the Transports to go in further quest of the Enemy, Resolving to range the parts all the Shoar along. Our Forces were all in good health, and animated with their Success further to pursue the Enemy." — *No. 151.*

From the following item in the next number of the News-Letter it appears that up to the thirteenth of March no further tidings had been received of the progress of the expedition:—

"*Piscataqua, March 13.* We are in daily expectation of hearing from the Forces to the Eastward that are gone in Quest of the Indian Enemy, and hope they have met with another party of them." — *No. 152.*

* Executive Records of the Council, vol. 4, p. 379. The transports employed in conveying Hilton's forces were in commission from the sixteenth of February to the twenty-eighth of March, but March's men were paid from the eighteenth, which seems to have been the duration of the expedition.

† *Ibid.*, p. 460 (and Mass. Archives, vol. 123, p. 17).

‡ The name is, modernly, Lowell.

§ Executive Records of the Council, vol. 4, p. 397 (and Mass. Archives, vol. 122, p. 284).

|| *Ibid.*, p. 459 (and Mass. Archives, vol. 123, p. 20).

¶ *Ibid.*, p. 399 (and Mass. Archives, vol. 122, p. 284).

** This conjecture is confirmed by the following entry in the executive records of the council:—

"May 6, 1707. Resolved. That the Souldiers that served under Col^d March in the Months of February and March past, on an Expedition to the Eastward other than such as are enlisted in the present Expedition to Nova Scotia be discharged on the day of their return back to Newbury. . . . And that Mr Commissary General reform the Muster Roll accordingly." — *Vol. 4, p. 398.*

†† "Mar. 3, 1707/7. Our souldiers (in number 110 officers and all) in y^e Dead of the night, surprized two Indian-wigwams at a place called Coxhead, near Sagu-de-Hoc, where killed 18 of the enemy, & took an Indian-boy. Seven or eight of y^e were stout fellows. Wamerson a Sagamore was here slain, but the poor Squaw taken at B: point, being pilot to our men, was sorely wounded by one Edward Hall." — *Pike's Journal, p. 145.*

This is an estimate, supposing one hundred and ten to be the total and that Hilton contributed only the thirty for whom he drew provisions.

On that day John Abbott, with his shallop and two men, impressed on the seventeenth of February to attend Hilton upon this expedition, were "dismissed out of her Majesty's service, there being no further occasion at present for said men or Shallop."*

A week later still the News-Letter contained the following item:—

"*Piscataqua, March 20.* Yesterday arrived at York a Fishing Ketch which adviseth that Col. Hilton Commander in Chief of the Forces to the Eastward is returned to Casco, having ranged the Eastern Coast, but could meet with no more of the Indian Enemy."—*No. 153.*

By the twenty-eighth the expedition returned, bringing news which fully confirmed the News-Letter's report of the tenth, save that the date of the attack is given as the third.† The squaw, who seems to have been dangerously wounded in this encounter, was brought back to Piscataqua, and by careful nursing recovered, residing ever after in Hilton's family.‡

Of this exploit the tidings reached Boston, as recorded by Sewall in the passage quoted from his Diary in the note to chapter 130, *ante*, on the sixth of March, just after the appointment by the Legislature of a half-day of prayer to be kept on the seventh by the whole General Court.

For his services in this and the preceding attempted expedition to Norridgewalk a warrant § upon the province treasurer was issued to pay Hilton forty pounds in full for his wages, "he being sixteen weeks upon the same;" which was duly paid.¶ He also received, besides the forty pounds, above mentioned, for two scalps taken at Black Point, one hundred sixty pounds ¶ for the eight scalps of the men slain at Cox's Head—these premiums to be apportioned among him and the men under his command in the respective expeditions.

While Hilton's force was out in the expedition to Norridgewalk, Dudley received a letter from Colonel Schuyler advising that "a party of French and Indians from Canada, intended to make a descent on some part of this Province, and to come lower down, than the Western Towns, which they had formerly found sufficiently strengthened to receive them."***

The Governor thereupon wrote to the council of New Hampshire, on the twenty-second of January, "setting forth that Major Smith would give notice to the Council of orders which he had rec'd from his Excellency, in expectation of a considerable body of the Enemy which was marched upon us; and that every body be in strict Garrison, and that a Scout be presently sent out under Capt. Davis or some other good Officer, &c."†† The record proceeds,—

"The several Captains of the Militia of each Town of this Province being sent for to this Board, all appeared in order to consult of proper methods relating to the security of her Majesty's Subjects against the French and Indian Enemy.

Whereas this Board is informed, that notwithstanding the Enemy is out in a vast body, yet several persons are daily out with several teams of Oxen some miles in the woods, upon the Frontiers, whereby they lye themselves exposed to the danger of the Enemy, and the Enemy may thereby be furnished with provisions, &c.

Ordered, That the several Captains of the Militia of the Frontier Towns call in all the said Teams, and suffer none to goe into the woods during the space of twenty days, upon their utmost peril; and that the Secretary issue forth orders to the several Captains accordingly.

Ordered, that Capt. James Davis command five men with sufficient arms and ammunition and snow-shoes, as a Scout, to range the woods betwixt Salmon Falls and Kingston, or elsewhere at the heads of the Towns, for the best discovery of the Enemy; according to his discretion, and he is hereby Impowered to impress the said five men if he has occasion, out of any of the Companies of Militia in y^e Province, and he is to continue the said Scout from time to time till further order, and that the Secretary issue forth his warrant accordingly.

Ordered, that Mr. Treasurer find the said Capt. Davis and five men as a Scout, from time to time, with all provisions, till further order, and that the same be paid out of the Treasury."—*Provincial Papers of New Hampshire, vol. II., p. 495.*

On the next day the Governor communicated Schuyler's letter to the Council of Massachusetts, and "acquainted" them "what Orders he had Express'd to the several parts, to give Notice thereof, and to command them to close Garrison, and keep out good Scouts, and what forces † he had ordered to strengthen the Frontiers of Essex and Middlesex, and dispatch away Col: Hunt to Groton with orders to command the Forces on that side."**

The report from Albany apparently received confirmation on the seventh of February by the discovery, on the Massachusetts frontier, of a body of the enemy, as thus narrated in the News-Letter of the tenth, which also records the action thereupon taken by the Governor:—

* Provincial Papers of New Hampshire, vol. II., p. 499.

† After midnight. Hence Sewall and the News-Letter of the tenth give the day as Tuesday, which was the fourth.

‡ "The poor squaw, who, to save her own life, thus sacrificed the lives of her countrymen, found 'the white chief' true to his promise, and she lived in his family till his death."—*Farmer and Moore's Hist. Coll., vol. I., p. 249.*

§ Executive Records of the Council, vol. 4, p. 386.

¶ Mass. Archives, vol. 122, p. 280.

¶ Executive Records of the Council, vol. 4, p. 385.

** *Ibid.*, p. 371.

†† The companies of horse sent out at that time appear to be those of Captain John Chandler of Woodstock, of ten troopers, on the west, and Colonel Ephraim Hunt (Stephen Williams, captain) sent to Groton. The foot companies appear to be those of Captain Josiah Parker, Sergeant Jonathan Lawrence, and Captain Seth Wyman of Woburn, all of whom were of Middlesex.—*Ibid.*, pp. 438, 439, 445, 544, and vol. 6, p. 74; also Mass. Archives, vol. 122, p. 421, and vol. 123, pp. 12, 13, 20.

"On Fryday Night [the seventh] His Excellency received an Express from *Groton*, that a Party of ours having been sent out several days before to range the Woods, had made a discovery of the Enemy about 40 miles off that place: Whereupon His Excellency forthwith ordered a Reinforcement * of those Parts, and other the Frontiers, and expressed the Intelligence thereof to the Chief Military Officers within the several Counties of *Mid-dlesex, Essex*, the Provinces of *New-Hampshire* and *Maine*, with Orders to be upon their Guard, and in readiness to repel the Enemy wheresoever they might happen to fall." — No. 147.

Still further confirmation of Schuyler's report came on the thirteenth, from the squaw captured by Hilton at Black Point, who averred that Ramezay, the commandant at Montreal, was "on this side the lake [Champlain] with a body of men, Bombazeene & Estcomebuitt with him."† On the eleventh Dudley "marched 160 men from Groton for Manadnuck [Mountain], where [he adds] it is presumed by my scout the enemy is."‡

The Governor improved the opportunity this rumor afforded to again suggest to Colonel Partridge the propriety of moving against Cowassie, expressing his belief that there was certainly a party there, and "these must needs pass home that way."‡ He added, "I am of opinion that if 200 men marched to Coasset, they would certainly finde a p^{ty} there & these returning. I desire you to move the officers from Conecticut that they will march thither, & you must joyne to them a proper numb^r of yo^r men. They cannot expect much from me."‡

No substantial foundation, however, for the report of an intended invasion from Canada was discovered upon further inquiry and waiting. The excursion to Monadnock proved fruitless, nor did there appear any occasion for strengthening the frontiers in New Hampshire and Maine; and as for the proposed march to Cowassie, a council of war convened by Colonel Partridge immediately upon his receipt of Dudley's letter of the thirteenth "resolv'd on the negative: that it was impracticable" — thus sustaining the judgment of Governor Winthrop§ by the deliberate opinion of a military tribunal — "the officers or committee of militia being present."§

Preparations for the coast defence were going on during all the other military excitements of the summer. Although d'Iberville's fleet failed to appear, there were reports from Martinique that four armed sloops had sailed about the first of June for the coast of New England.|| The fortifications of Boston and New York were nearly completed by the first week in August,¶ by which time Rhode Island had become aroused to the necessity of preparing to resist invasion by sea; and by the middle of the month the inhabitants of Newport had thrown up breastworks around the town, and were engaged in further fortifying the place.** Except these occasional alarms, and the prevalent fear of the sudden appearance of d'Iberville, there was little or no apprehension of danger, or of loss, by the enemy's naval assaults south of Nova Scotia.

The operations of the belligerents by sea and land did not interrupt their exchange of prisoners. Besides the exchanges made between Boston and Canada, Captain William Rous, who, on the twentieth of February, 1705-6, had brought seventeen prisoners from Port Royal to Boston, brought seven more on the tenth of June in the sloop *Anne*, under a flag of truce, and reported that eight more were on the way in the *Hope*,†† a brigantine which he had ransomed at that port, and that these were "all the English prisoners that were

* This reinforcement appears to have consisted of the following companies; viz., of foot, those of Captains Benjamin Willard, Joseph Bulkley, Thomas Nichols, Joseph Boynton, and John Whipple, and Sergeant Ephraim Roberts (who led seven sentinels from the Haverhill garrison); and of horse, those of Captains Jonathan Prescott, Thomas How (dragoons), John Peirson, and Peter Tufts, and Lieutenants John Whipple and John Stearns. — See Executive Records of the Council, vol. 4, pp. 437, 438, 439, 445, 459, 465, 477, 493, 495, and Mass. Archives, vol. 123, pp. 11, 12, 13, 15, 21, 22.

† Dudley to Partridge, February 13, 1706-7, *ut supra*.

‡ "... The unusual season of the yeare seemes in my opinion impossible for the enemy to make a Christmas march, as the late advice does intimate was intended." — Winthrop to Whiting, January 29, 1706-7, *Winthrop Papers*, part V., p. 366.

"N: LONDON, Feb. 18. 1706.

GENTLEMEN, — Your post delivered me your letter of ye 16th the same night at 10 of the clock, with those from Coll: Partridge & Major Whiting directed to your selves, as alsoe the copies of Gov. Dudley & Capt Belchers letters to Coll: Partridge; wch I have considered, and in regard the alarme continues and that the people of Hampshire are under apprehensions that the enemy may infect those townes, I am willing Major Whiting with our forces under his command be continued in that county untill the third day of March next. In wch tyme the enemy (if there be any) will be retired or disperst, as it's impossible to continue in such a body as is reported. But if there be farther and real discovery of the enemyes advance into those parts, then I leave it with you to continue our forces there some tyme longer, giving me acct of the necessity of it. I have not yet seeme to my satisfaction, in any of the papers transmitted to me, a certaine acct of a discovery of the enemy, their number and rendezvous. If the discovery be made by the squaw taken by Coll: Hilton, her acct of Monsieur Ramsay on this side the lake with a 1000 men does not in my opinion amount to see much as will excuse the trouble & hurry it has occasioned to us. But probably by this tyme you have a more pertieulier & perfect acct of this matter, & I doe recommend to you to direct our forces as shall appeare to you most conducive of the publick safety. I have wrot to Major Whiting, as you will see correspondant with this, wch is a present direction to him. I am very much contented with his expeditious march to those townes, wch did see tymeely succour and comfort their feares upon this last alarme. With my hearty salutations to your selves, I am
Y^r affec^t servt,
J: W: — Fitt.

John Winthrop to the Committee of War. *Ibid.*, p. 368.

§ Major Whiting to the Committee of War of Connecticut, February 15, 1706-7. — *Ibid.*, p. 370.

|| Boston News-Letter, No. 115. June 24 to July 1, 1706.

¶ *Ibid.*, No. 121. August 5 to 12, 1706.

** *Ibid.*, No. 122. August 12 to 19, 1706.

†† The vessel soon after employed as a flag of truce to Quebec under command of Captain Appleton.

there." * The last of the French prisoners to be returned to Port Royal were sent in the "stone-sloop" of sixty tons which had been captured by Captain John Calley in the bay of Port Royal and brought to Casco Bay, as reported in the News-Letter of the eighth of July.† This vessel sailed from Nantasket on the thirtieth of August,‡ with the brigantine Hope and the French bark Marie, — the sloop and the Marie having first been carefully searched for contraband articles, and "eight new fire arms, Bullets, Shot & wool" taken from the latter on the twenty-seventh by order of the representatives.§

There yet remained some ninety English prisoners in Canada,|| besides those whom Subercase captured in his descent on Newfoundland the previous year. Of the measures taken to recover the former, and of the result of these measures, an account is given in the note to chapter 38 of the resolves of 1707. Of the Newfoundland prisoners probably all that survived accompanied Subercase when he went to Port Royal to succeed de Brouillan, after the short term of Bonaventure, who was acting governor while the latter was gone to France. Subercase, who had been appointed in April,¶ 1706, arrived at the seat of his new government apparently some time in December. Not long after his arrival he shipped to Boston thirty-four or thirty-five** prisoners in a sloop under a flag of truce, Louis Aubert du Forillon†† master. Her arrival on this coast is thus noticed in the News-Letter of the sixth of January, 1706-7: —

"*Piscataqua, Jan. 2.* On Thursday last the 26th day of *Decemb.* there arrived at *Nantucket* near to *Wells* in the Province of *Main*, A Flag of Truce from *Port Royal* with 34 English Prisoners, who had been out of *Port Royal* about a month before, which said Prisoners came from *Placentia* in a French Man of War of 36 Guns, with Monsieur *Subercasse* (mentioned in our Num. 139. to have a Commission for the Government of *Port Royal*.)

There came also a Flyboat from *Placentia* of 8 Guns, being a Store Ship, which was again Laden and ready to Sail for *France* when the said Prisoners came from *Port-Royal*. Of the above Prisoners belonging to *Boston* are, Messieurs, *Arthur Jeffers, Peter Signiac, Allen Southmead, Solomon Gardner, Abraham Lewis, John White, Thomas Dawson*, and 7 more belongs to *N. York*." — No. 142.

Two days later Mr. Sampson Sheafe, the deputy-collector of customs for New Hampshire, reported to the council the arrival of the sloop at Portsmouth and that he had ordered some men on board of her lest she might carry French goods for the purposes of trade, and prayed that the master be examined as to whence he came and in relation to his cargo, etc. Thereupon the master of the sloop appeared and —

"... produced his pass-port, dated the 15 December, 1706 at Port Royal; as alsoe a List of the Names of the English Prisoners he brought from thence, and alsoe shewed his Orders and Instructions by which he was to deliver all his Cargo to his Excellency, Joseph Dudley, Esq. Governour, &c. and to noe other, for and towards the payment of the French prisoners debts, who were lately sent to Port Royal from Boston, by way of Exchange, &c.

The Council understanding the said Sloop to be a Flag of Truce, and by the said Master's Instructions that he was to deliver all his Cargo to his Excellency, as above said,

Ordered, that he be admitted to proceed on his voyage to Boston, first giving an account to the Collector of all his Cargo, &c." — *Provincial Papers of New Hampshire, vol. II., p. 493.*

On the twentieth the News-Letter announced the arrival of the Frenchman at Boston, as follows: —

"On Saturday the 18th. Currant arrived here from *Piscataqua*, the Flag of Truce that came from *Port-Royall*, with our Prisoners mentioned in our Num. 142." — No. 144.

By an item in the News-Letter of the thirteenth,†† it would seem that the enterprising news-gatherer had had an interview with some of the prisoners before the sloop sailed from New Hampshire, and learned from them of the disaster that befell a French privateer of twelve guns and seventy men (which sailed from Placentia in the latter end of May), in an encounter with a merchantman of about twenty guns, "which he took to be a New Englander."

On the twenty-third the Governor communicated to the Council a letter addressed to him by Subercase §§ and brought by du Forillon; but not until the nineteenth of February did he communicate a draught of his letter in reply to Subercase.|||| The intervening time was spent, presumably, in discharging and disposing of the cargo and in getting together the French prisoners,¶¶ whom Dudley returned to Port Royal in the same vessel. In provisioning the vessel for the subsistence of the prisoners returned, a generous allowance was made for "the spoyle & imbezelment made of their provisions, by our prisoners coming hither." |||| A further delay of nine or ten days induced the Council to pass the following order: —

* Boston News-Letter, No. 113. June 10 to 17, 1706.

† See note to chapter 17, *ante*.

‡ See note to chapter 67, *ante*.

§ On the same day upon further consideration the House proposed "that the arms be Return'd on board, & the shot, & Bullets be detain'd," and the Governor was "desired to write to the Governor of Canada concerning this affair." — *Mass. Archives, vol. 71, p. 256.*

|| See note to resolve, 1707, chapter 38.

¶ Announced in the News-Letter of the sixteenth of December (No. 139); and see note to private act, number nineteen.

** The News-Letter says thirty-four, but Dudley (*Executive Records, vol. 4, p. 371*) gives the number as thirty-five.

†† "*Louis Aubert de la Chenaye de Forillon, Lieutenant réformé et capitaine des gardes.*" — *Tungay, — "Dictionnaire, Généalogique, etc.," Montreal: 1886, vol. II., p. 62.*

‡‡ No. 143.

§§ *Executive Records of the Council, vol. 4, p. 370.*

|||| *Ibid.*, p. 379.

¶¶ Brought in by our cruisers and merchantmen since the stone-sloop sailed in August.

"March 1, 1706-7. Whereas by reason of the Detention of Mr Fourrillan with the Flagg of truce from Port Royal, the fourteen days provision ordered the 19th past, for subsisting of the French prisoners and the Vessel's company * in their passage home, is near expended.

Ordered. That Mr Commissary General make good fourteen days provisions for subsisting of the Prisoners and Company home to commence from the day of the vessels sayleing, amounting to one hoggshead of bread and one barrel of Porke.

That Mr Commissary examin the Tradesmens Bills for the necessary Trimeing of the Vessel, being Leakey, that Mr Fourrillan be not over charged, nor pay extraordinary for the same.

That he adjust the Accompts of the necessary Provisions for Victualling the Vessel for the time she has been here, Mr Fourrillan to pay for the same.

And that a Hoggshhead of Wine and four barrels of Beer be sent as a present to the Gov^r of Port Royal.

J: DUDLEY." — *Ezec-*

utive Records of the Council, vol. 4, p. 380.

Soon after Snbercase had been appointed governor, Dudley seems to have conceived, or revived, the project of striking a decisive blow at Port Royal. To this end he deemed it desirable, if not necessary, that the New-England colonies, and, if possible, the Governor of New York also, should join in the enterprise. As early as the tenth of February, before Hilton had brought his little army back from Norridgewalk, and while du Forillon was still in Boston awaiting an opportunity to return to Port Royal with the French prisoners liberated by Dudley in exchange for the English prisoners from Placentia, the latter broached the subject to Governor Winthrop, as follows:—

"To the Honorable John Winthrop Esq^r Governour of her Majesty's Colony of Connecticut, New-London.

ROXB. 10. Febr. 1706[-7].

SE, — By a flag of truce from Port Royal I am advised of the arrivall of a new Governour there, Mr Supercass, with order to settle new fortification & strengthen himself; which is greatly to the annoyance of our navigation, upon which they must live unless wee remove them, and there seems a great inclination to it in the trading part in these provinces. I am of opinion that a thousand men, with two or three ships of strength, besides transports, may drive all the country into their fort, and in a short time starve them out. I am loath to speak of such a thing unless I were able to go thro' with it. I desire your advice upon the matter, and must expect a number of men from your Government to joyn with the forces of these Provinces. If we go, it must be early in April. The benefit will be equall to us all, and if you can think it advisable, I desire to hear from you as soon as may be. I believe Road Island will come in. I would not have the matter made publick, lest we do not proceed, or the enemy be advised, which would both be inconvenient. We are alarmed on every side in expectation of a descent from Quebeck. I hope your Hartford people will be ready to assist the upper towne on the river. I am Sr your very humble servant,

J. DUDLEY.

You will pardon this; I write by a clerck, being not well." — *Winthrop Papers, part V., p. 367.*

This appeal was inopportune. Even if Winthrop had had such confidence in Dudley's wisdom and ability as to be inclined to look with favor upon his military projects, the colony of Connecticut was in no condition to contribute either men or supplies sufficient to satisfy Dudley's expectations.

As far back as December† the government of that colony had evidence that the enemy had been tampering with the Owyantinock and Potatuck tribes settled near Waterbury, and it had required the exercise of the greatest fortitude, patience, and circumspection to keep control of these savage neighbors, who, though nominally friendly, were not steadfast.

It was while thus menaced at home that Connecticut had been again urged by Dudley to send an armed force to dislodge a supposed company of hostile savages at Cowasie, in the primeval forest, hundreds of miles distant up the Connecticut River. While declining to indulge the Governor of Massachusetts by approving his hobby, the colonial government had, nevertheless, sent sufficient reinforcements to the frontier towns in Hampshire County to render their garrisons proof against any probable attack of the enemy, and had kept bodies of active troops energetically employed in scouting the woods in that county, so as, virtually, to relieve the administration at Boston of all care or anxiety in regard to the entire western end of the province. Dudley had required this favor by enlisting companies of the Moheags into the Massachusetts service without the knowledge of Winthrop, and retaining them against his protest.‡

It has already appeared that the wary and discerning Governor of Connecticut had repeatedly declined to accept Dudley's opinion, or the reports and rumors coming directly or indirectly from the Indian enemy, as sufficient ground for action which might involve his government in useless expense, and expose the inhabitants of his own frontier to the assaults of domestic or foreign savages. The result had proved his sagacity; and now, while Connecticut was reinforcing her own frontiers § for protection against a threatened insurrection of savage tribes domiciled within her own borders, and while another appeal

* Fifteen in all.

† Winthrop to Treat. Winthrop Papers, part V., p. 360.

‡ See note to chapter 4, ante.

§ "New-London, Febr. 3d. Our Frontier Towns on the Western part of this Colony have been lately alarmed, with apprehensions of danger from some of the Indians that are on the back of these Towns; which has caused our Governour to take this day a Journey to Hartford—in order to Reinforce the Frontiers to expel the Enemy where they might chance to fall on." — *Boston News-Letter, No. 147.*

to rally at the Hampshire frontier or to join in a march to Cowassie was imminent,* Dudley could hardly have expected the hearty coöperation of Connecticut in his grand scheme of conquest at Port Royal.

On the twenty-fifth of February Winthrop replied to Dudley as follows:—

“NEW LONDON, Feb: 25th 1706.

S^r, — I was forst to omit my returne by the last post to your letter of the 10th instant, being much indisposed after my returne from Hartford, where I stayde a few dayes to visit our frontiers. Your Excl^{ys} proposall to reduce Port Royall is a matter of great consideration, as it may many wayes advance her Majesty's intrest, and it has not formerly been thought a difficult enterprise to attack it, nor now much stronger to indure a shock. Among many wayes that may be proposed to surprize them, that methode you mention to drive the country into their fort may not be difficult, and tis probable that vpon their discovery of our ships they will readely of themselves repaire to it, and may there be surprized, if they doe not foresee the mischeif and not provide against it. The neerenes of their situation to us gives them advantage to intrude vpon her Majesty's right in these parts and does greatly obstruct our trade and navigation; therefore fit to be reduced. Their settlement has such naturall advantages to strengthen itself that a little longer tyme will make it a Dunkirk to this country, and the French seeme to project it already by sending a new Governor with great stores to fortify and strengthen himself, and will doe all that is possible to defend it against us; but that is but a strawe and will not affright us. Yet the temper of our people (tho very stout) is generally very thoughtfull and cautious; and tis possible some may insinuate that tho' wee should succede in the designe, yet if vpon the conclusion of a peace (weh one would think not far off) it should be restored to them, the hon^r of our succes will soone be forgotten, and wee should much resent that we have lavisht our blood and treasure. And tis not unlikely but others will consider that at this tyme, when wee are every day alarmed and expect considerable parties of the enemy from Canada to infest our frontiers, it may be hazardous to draw out of the country soe many choice men as you mention will be proper to carry on the designe. But your Excl^y (beside your own opinion) has round about you the best advice that can be, and none can be added to it. Yor Excl^y desiring the designe may be strict, I have therefore returned it to you, and tis now noe where but in your owne breast, untill you think fit to communicate to the Council & Gen^l Assembly, who you know have the power to conclude all affaires of this moment. I am sorry for your indisposition, weh I hope is well over. I am S^r,
Yor very humble servt,

J: W.— *Ibid.*,

p. 370.

It is difficult to conceive how this missive could be excelled for adroit sarcasm, deftly concealed under the guise of candor, yet so kindly expressed that it might well be accepted as an approval did it contain the profession of a purpose, or even a desire, to coöperate. The allusion to the possibility of incurring the censure of “others” for leaving the country open to an attack from Canada, by drawing out of it “so many choice men,” at a particularly perilous juncture, is perhaps the neatest thrust in the letter; and one that must have been felt.

Dudley was more successful in his application to Rhode Island. Precisely what he wrote to the authorities there has not been discovered, but the following is the act of the assembly passed, apparently, on the twenty-fifth of February in response to his request:—

“Voted, Whereas Col. Dudley hath requested aid against Her Majesty's enemies:

Be it enacted by this Assembly and the authority thereof, and it is hereby enacted, that if Major Wm. Wanton or Capt. John Wanton, can be prevailed upon, but if they cannot be prevailed with to head a quota of men, then shall His Honor the Governor, with advice of his Council on the Island, or others that shall be appointed with them, make choice of a Commander, and to be such an one as the soldiers shall accept; and to be on the service four months and no more, without they see good to continue longer.

And it shall be in the power of the Governor, with the advice of the Deputy Governor, and assistants aforesaid, with Major Henry Tew, or the major part of them, shall have full power † to impress a vessel, not exceeding eighty tons, with great guns and small and other necessary stores for war; and to grant a commission to beat up for volunteers throughout the colony, to the number of seventy or eighty, but not to exceed. And if there appear not enough to make up said number of seventy, then they shall have power to impress, but not to impress above forty-eight. And all charges shall be paid out of the general treasury, by a tax laid on the inhabitants in this colony; always provided, that they shall not have liberty to go beyond the latitude herein prefixed, viz.: thirty or forty-six, north latitude. And volunteers if disabled in service, shall have the same provision for maintenance as those that are impressed. And the aforesaid commanders of the cruisers shall at all times attend to such instructions as they shall receive from the Governor, with the advice, as aforesaid. And the Governor shall give such commanders a commission or commissions, as occasion shall require.”—*Records of the Colony of Rhode Island, 1707-1740, vol. IV., p. 5.*

Having thus sounded the governors of the adjacent colonies, and notified them of his intentions, Dudley met the Assembly, in its fourth session, on the fifth of March, to which time he had prorogued it on the thirty-first of January. In his opening speech he addressed the Council and House of Representatives as quoted in the note to chapter 131, *ante*, prefacing those paragraphs with the following:—

* Dudley's letter to Partridge, suggesting another call upon Connecticut to join in sending two hundred men to Cowassie, was written only three days after his proposition to Winthrop to coöperate in the expedition against Port Royal. Indeed, Schuyler's note of alarm had reached Connecticut on the sixth of February (Colonial Records of Connecticut, 1706-1716, p. 15); and Winthrop had heard of Schuyler's letter to Partridge as early as the twenty-seventh of January.

† *Sic.*

"Gentlemen,

When I look back upon the four years hard Service & heavy Taxes that the Warr with the French & Indian Rebels have necessarily demanded of this Province, And observed the great readiness of Her Majestys good Subjects to obey the Comands given them And the chearfull grant of the Supplys necessary for their Support by the Generall Assembly at all Times, It gives me Just Satisfaction & Encouragement, that the Good Providence of Almighty God will further direct us in what is necessary for the Security of the Province & Defence of our Frontiers, which being of so great extent, demand our constant care & Expence, which I have always desired may be no more than is necessary, to Save your Treasure as farr as is possible consisting with our Security." — *Mass. Archives*, vol. 108, p. 46.

On the seventh, a resolve, passed in the House, "for a bill to further continue the act to encourage the prosecution of the Indian enemy and rebels," and by which the premium for each Indian scalp taken by volunteers without pay was to be increased from fifty to one hundred pounds, was agreed to by the Council; and the bill * was put upon its passage the next day, and received the Governor's approval on the thirteenth. On the eighth, the House passed the vote of advice printed in the note to chapter 131, *ante*.

Chapter 131,
ante.

On the tenth, the resolve which constitutes the chapter last named, appointing a committee to consider the import of the Governor's speech, etc., was passed. This committee, who appear to have immediately taken up the matter, adjourned, from day to day, until the thirteenth, when John Hathorne, the chairman, reported a series of resolves which were, —

"Read at the Board & sent down to the Representatives for Consideration by that House & to Act first thereupon, Being an Affair that will demand a great Expence of Money." †

On the fourteenth, the report was brought back from the House by a committee consisting of "Mr Epes, Mr Jewet, Mr Blagrove & Major Swain with the Vote pass'd in the House thereupon Accepting the said Report with some Additional Articles contained in a paper annex'd." ‡

The report and annexed paper were "left under Consideration," by the Council, until the next day, when "being now Read & Debated; The Council pass'd a Resolve in Lieu of the first Article, and Accepted the other Articles in the Report of the Committee; Then proceeded to the Consideration of the Additional Articles offer'd by the Representatives And with some Amendments Agreed thereto, Which were sent down for Concurrence." §

The first article of the report as originally rendered was as follows: —

"1. We Think it highly Necessary, That y^e French settlem^{ts} in Nova Scotia be Insulted by us, & Particularly, The Fort of Port Royall, in the Best Manner we can, In Order to y^e Removall of them, if Possible." — *Ibid.*, vol. 71, p. 283.

The resolve substituted for this by the Council, and which constitutes chapter 136, *ante*, appears to have been agreed to by the House on the seventeenth, and in this form it was passed, and consented to by the Governor.

Chapter 136,
ante.

As modified by the Council, in a new draught, prepared by them, of the proposed additional articles § annexed to the report of the committee, the first article stood as follows: —

"That all Plunder saved by Order of the Officers, Except the Great Ordnance and Stores of War, be Shared to and among the Officers and Souldiers [proportionably to their Wages, as the Law already provides]." — *Ibid.*, p. 285.

The Council added a clause of ten words to the third article, as revised by them, so that it read thus: —

"That all Sons, within age, and Servants, be Entitled to the additional Wages of Two Shillings p^r weeke, and Share of plunder to their own proper use; being regularly detached, or Enlisted with the Consent of their Parents or Masters." — *Ibid*.

On the seventeenth, the committee of the House which brought to the Council the vote of the representatives agreeing to the resolve proposed by the Board, in place of the first article, brought also a message "That the House did not Agree to the Reform of the two additional Articles referring to Plunder & that of Enlisting Sons within Age & Servants, Viz, Those Words (With the Consent of their Parents or Masters):"

They having added a Clause for Sharing the Plunder in equal Parts to each Man, And in Case the Fort be taken, Five Hundred Pounds shall be paid out of the publick Treasury & divided amongst the Officers in Proportion to their Wages, In Consideration of the Plunder being divided as afore said."

Thereupon "The Secretary, Mr Commissary Belcher, & Cpt: Appleton were sent to the House with a Message, that the Board did insist on the Article referring to Plunder,

* Province Laws, 1706-7, chapter 12.

† Council Records, vol. VIII., p. 280.

‡ *Ibid.*, p. 282.

§ These articles as first drawn were as follows: —

"Voted, y^t all plunder Except Great artillery & Amunition be Equally divided to Each volunteer officers & souldrs alike

2 That Each volunteer (private Centenels) have added to y^e wages by Establishm^t two shillings p^r weeke to make it Eight

3 That two shillings p^r weeke added to sons & servants & all plunder be to sd sons & servants y^t attend y^e service as volunteers

4 That all volunteers may be Excused after this service is attended by them their turne as if they were or had been Imprest thereto

5 That there be added to y^e officers y^t shall be Improued in sd service one third more of wages for their Encouragm^t than is giuen by Establishm^t

6 That seamen & mariners be allowed alke Encouragm^t as y^e volunteers by addition to their wages & plunder if they Land in assistan [sic] to attacking the Fort

7 That one Thousand pounds shall be paid out of the prouince Treasury to y^e forces if Gods prouidence seee ouer Rule y^t they take & demolish y^e fort at port Royall In Equall p^rts to Each man." — *Mass. Archives*, vol. 71, p. 289.

That the Distribution thereof be in Manner as the Law already provides, & could not admit of any Debate thereabout;

And that they accounted it very unreasonable & pernicious to allow Sons within Age & Servants to enlist as Volunteers without the Consent of their Parents or Masters.*

On the same day there was "A Message afterwards sent to the House by Cpt: Appleton & Mr Payne, That to put an End to all further Debates about the Distribution of the Plunder, As they have Voted Five Hundred Pounds to be divided amongst the Officers in Case the Fort be taken, That they Vote the Five Hundred Pounds or what Sum they think they can comply with to be paid to the private Soldiers in Case they take the Fort for their further Encouragement."†

In reply to this, on the eighteenth, "Mr Hill & Mr Morse of the Representatives brought up the Additional Articles to the Report of the Comm^{ees} with a Message from the House, That they insisted on the Alterations made in the said Articles by the House."‡ Thereupon "The Council Voted their unanimous Adherence to the Additional Articles as drawn up by the Board with the further Addition to the Articles for Distribution of Plunder, As the Law already provides, of these Words; Viz, In the Prosecution of the Indian Enemy: Sent down by John Higginson & Edward Bromfield Esq^{rs}."†

The House still remained disinclined to yield, and, accordingly, "A Message was brought up by Cpt: French & Cpt: Osgood of the Representatives That the House adhered to their own Vote referring to the Distribution of Plunder."‡

At this stage the Council proposed a conference, which was had, as shown by the following entry:—

"Upon the Debates betwixt the two Houses as to the Articles about Plunder, & the Enlisting of Sons within Age & Servants, A Message was sent to the Representatives to move that a Conference be had betwixt the two Houses upon those two Articles, And that it be forthwith attended in the Council Chamber.

And the Speaker with the House being come up, The Conference proceeded, and was managed by several Members of each House."†

The day after this conference, "A written Message from the Representatives brought up by Mr Adams a Member of that House was Read, being in the Words following; Viz,"‡—

"In the House of Representatives. March 19: 1706.

Ordered That a Message, be Sent up to the Board, That, when this House Voted an Expedition to be formed, against the french Enemy at Nova Scotia, They did it, with an Expectation, That It Should be performed by Volunteers, which unless the encouragement, for them, be as is contained in the additional articles, voted by this House, They do Despair of: And apprehending It will be very Injurious, to the Province for the greatest part, of the men to be Impressed, Do therefore Continue to adhere to the sd articles as last sent up.

THOMAS OAKES Sp^r."—*Ibid.*,

p. 290.

On the twentieth, the Council passed the following order:—

"Ordered that a Message be sent to the Representatives Viz,

That the Council being led to the Consideration of an Expedition against her Majesties Enemies the French of Nova Scotia & L'Acadie, at the Motion of that House, & the Expression of their Willingness to support the Charge thereof, And Inquiry being made by Committees of both Houses into the present Capacity of the Province to supply the necessary Shipping Provisions & Stores of War, Perceiving also a good Disposition in his Excellency thereto, Did sincerely Consent to advise the Putting of it forward from a just Apprehension of the pernicious & fatal Consequences attending the Trade & Repose of her Majesties good Subjects in these Provinces, by the Growth of those our ill Neighbourhood, Hoping by the Favour of All-mighty God to remove them & prevent that Mischief & Inconveniency, And have cheerfully concurr'd to what has been, and are ready to Agree to what may further be reasonably Offer'd by the House to encourage such an Attempt; And are of Opinion that the Affair having been so far proceeded in, & an Expectation raised in the People, It concerns the Honour of this Court Not to set it aside but for just & weighty Reasons & Considerations, & not upon the Head of those Articles, which have been the only Matters of Debate betwixt the Houses, To which this Board conceive they have made just & reasonable Answers at the Conference of the Houses; And therefore move the House of Representatives to reassume the Consideration thereof, & to withdraw those Articles, & to propose some other Method for Accomodating what is therein insisted on, That this House can agree to, & the Expedition not be delayed."—*Council Records*, vol. VIII., p. 285.

To the above message of the Council the House responded by a proposal, as follows:—

"March 21, 1706-7. A Proposal offered by the House of Representatives of a Sum of Money in Gross to be paid unto the Officers Soldiers & Sea Men that shall serve in the Expedition proposed to Nova Scotia & L'Acadie, They to carry on the same at their own proper Cost & Charge, Was Read, &

The Council drew up some Emendations thereto, Which if the House agree to, The Council are willing to enter upon y^e Consideration of that Method."—*Ibid.*, p. 286.

Thereupon the House passed an order substituting for the first of the additional articles, as reported, an article substantially identical with the first of the additional articles as they were finally adopted.

The difficult matter of reaching a satisfactory agreement in regard to the division of the plunder having thus been accomplished, other details were settled without much dispute or delay.

* Council Records, vol. VIII., p. 283.

† *Ibid.*, p. 284.

‡ *Ibid.*, p. 285.

For the last sentence in the second paragraph of the report of the committee, the above order of the House contained the following:—

“That if the aboves^d numbers of Souldiers and seamen, do not offer themselves voluntarily what are wanting be equally, Impressed, out of Such Towns, as are not frontiers, by land, so that the number of Souldiers impressed do not Exceed Three Hundred
Sent up for Conerence,
Archives, vol. 71, p. 286. THOMAS OAKES Speak.” — *Mass.*

The various paragraphs of the series of proposals (of which the present chapter as well as chapter 136, *ante*, — which had already been adopted and passed, — formed a part) were now concurred in, and consented to by the Governor.

The record of the final agreement is as follows:—

“The House reassembled the Proposal, & sent up a Vote, Wherein they return’d to the Report of the Committees & the Resolve of the Council in Lien of the first Article thereof, with some Alterations in the Additional Articles thereto as sent down from the Board, Which additional Articles were directed to be a new drawn with Reforms made therein by the House, And then Read & Agreed to; The Whole being as follows; That is to say,” etc. — *Council Records, vol. VIII., p. 286.*

Immediately upon the expression by the Legislature of the advice contained in the report of the joint committee which constitutes this chapter the Governor began to prepare for the expedition against Port Royal. On the twenty-second, at his suggestion, chapters 143 and 144, *post*, were passed, for establishing the wages of the chief military officers, and, conditionally, offering gratuities to the commander of the Deptford, man-of-war, of the royal navy, stationed on the New-England coast, and to the captain of marines on that frigate, — whose coöperation with the provincial forces he deemed important. On the twenty-fourth, agreeably to the decision of a council of war* convened by him, Dudley sent out a circular letter† to the several colonels of the provincial regiments of militia to furnish specified quotas of men, duly armed, “to Muster in the several parts upon Thursday the 17th of April — ready to Obey Orders.”‡ The grand parade was appointed to be at Hull on Saturday, the nineteenth. It was intended to supplement the number thus called for, amounting to eight hundred and eighty men, with companies of Indians§ from Bristol and Barnstable Counties sufficient in number to complete the complement of one thousand, rank and file. No contingent from Connecticut appears to have entered into this computation.

Dudley also despatched letters of the same date to the governors of Connecticut and Rhode Island and to the council of the province of New Hampshire. His letter of the tenth of February to Governor Winthrop had been merely tentative, and to give a distinct intimation of his intention to attempt to dislodge the French in Acadia, and of his desire of assistance from Connecticut. Notwithstanding that this proposition, conveyed with an injunction of secrecy, had not been received with favor, Dudley now appears to have expected that the formal request of the Massachusetts Legislature that he solicit the neighboring governments to contribute their respective quotas to the expedition “on their proper cost” would prove effectual. He therefore wrote in a more confident tone, as follows:—

Si

“Boston. 24th March. 1706./7.

The general assembly of this province now sitting have earnestly moved mee to make an Expedition against La’cadie & nova scotia, and at the same time address mee that I will move her Majestyes Govement under your Comand that you will supply a Just & reasonable part of the forces & Expences of that Expedition,

I am thereupon determined to Rayse one thousand men with shippis of force to Cover them & a number of Transports for their acomodation, with all things necessary for ten weeks subsistence and stay in those parts to which I may adde as ocasion, & the veiw of service may demand,

* This council consisted of sixteen members; viz., five colonels (Colonel Hathorne presiding) and one major of the Massachusetts regiments; Colonel Hilton of New Hampshire, and Colonels Hutchinson, Foster, Townsend and March; Major Winthrop; Captain Appleton; Commissary-General Belcher; and Captains Stucley and Sutton of the Deptford, — the former ranking with Colonel Phillips and the latter with Colonel March.

† This letter ran as follows:—

“G^r

24th March. 1706/7.

The general assembly have moved mee to rayse one thousand men for an Expedition eastward, The very great discouragement they give them is Contayned in the Inclosed minute of The Votes of both Houses, I Expect of you . . . good men well armed, I have only to Desire of you to use your Utmost skill to make them all Voluntiers, upon the Encouragement of two shillings per week above preat men, as you will see in the Votes. which you will very well do by acquainting them you must draw them out of the files if they be not free to list. In order to this let every company muster where if possible you will be present or in your absence Instruct the Commanding officer to Get his number which you will in the particulars make superiour to your whole number that you may be sure of your Complement which I Desire you to have at . . . ready to obey orders by thersday the seventeenth of April next, I hope I shall find officers for them in your own or [sic] County in assistance of Which give me The names of four or five fitting & willing soldiers of Estate & reputation with you.” — *Mass. Archives, vol. 71, p. 318.*

‡ *Ibid.*, p. 296.

§ “March. 24th 1706/7 . . . A Letter to Col^o Church to Enlist them in two Companies under his Son and Captain Cooke. — & to have 1000^l put into his hands to Encourage them & to Subsist their Familys, in p^y pay.

Indians. 100

A Letter to Col^o Thacher, Major Bassett and Capt^o Otis to Enlist forty or fifty Indians on that side. . . And to name an English Capt^o & Lien^t that may be acceptable to them. — the Indians to have 20s. ap^t advance^d to Encourage them & Subsist their Familys in their absence.” — *Ibid.*, p. 320.

Indians more 50

I do therefore Desire that you will please to Joyn your forces with those of this province the service & benefit being equall because it is Certain, that the advantage by the removall of the french settlement there, will be of equall advantage to your Government as to Her Majesties subjects of these provinces, the Charge & support of the warr to Every bodyes observation, is Lying upon this province & I hope those Concerned in the Government of your Colony will freely come into this Expedition. The Government of Road Island have reposed that trust in their Governour to Equip 80 men with a transport vessel and all things necessary — That Government cannot be Counted a third part of Connecticut, & it is in Every bodyes knowledge that Connecticut was always above half* in proportion to the Massachusetts.

I hope to be ready to sayle by the middle of april & do with all earnestness move your Consideration of the affayr and desire your speedy answer thereupon

I am Sr your very humble serv^t

J. D.

Gov^r Winthrop." — *Mass. Archives*, vol. 2, p. 156.

To this Winthrop replied as follows:—

"NEW-LONDON, March 27th 1707.

S^r. — The post delivered me yor letter last night past twelve, in his way to Say Brook, and I expect his returne presently and can now make noe direct answer to it. Your Gen^l Assembly have taken tyme to consider and provide for the designe, and I understand the Rhode Islanders have been in preparation for it before your former came to my hands, and yor Exc^{le}y obliginge me to keepe it privet, I had noe reason to make any step in that designe, but have now appointed the Gen^l Assembly to meet me at Hartford on Wednesday the 24 of April and will advise with them upon the heades of your letter, wch shall be hastned to you. If the Assembly should agree to assist the designe with men, they must goe in transport vessells from Boston, here being none fit for the designe, and I presume her Majestye's stores of amunition will be in comon for all. The late alarme made by your scout (frighted with Jack in the Lanthorne) put us to a great deale of trouble and 400^{lb}, and he deserves to be cashered and punished. It has soe much disoblighd our soldiers, that it will be difficult to get them into a good disposition to y^r service. I will doe all that I can for the publick welfare in this or otherwise, and am, Sr,

Yor very humble serv^t,

J: WINTHROP.

Gov^r Dudley." — *Winthrop Papers*, part V., p. 373.

A memorandum in the Massachusetts archives, made by Dudley on the twenty-sixth, shows his intention to write to Cornbury informing him of his design against Port Royal and asking his assistance, and adding a request that Captain John Redknapp, the queen's engineer-in-chief in America, be permitted to return to Boston. That this intention was fulfilled appears by the following letter to the Governor of Connecticut requesting him to forward a letter to the Governor of New York and at the same time reiterating his wish that Winthrop would coöperate in his measures against the French in Nova Scotia:—

"Boston, 26 March 1707.

S^r. — This express humbly offers you a letter to his Excelency my Lord Cornbury, referring to the intended expedition eastward, which I desire you will immediately express to York. I hope you have my letters by the post & that you will think it reasonable to give your assistance therein. I am Sr,

Your very humble servant,

J. DUDLEY." — *Ibid.*

During this correspondence, the council of war appear to have met from day to day to arrange the details of the fitting out and organizing of the forces. On the twenty-ninth Dudley announced to them that he had selected Colonel John March to be commander-in-chief of the expedition, and that he had marshalled the land forces into two regiments, the first † to be commanded by Winthrop Hilton as colonel, with John Wanton as lieutenant-colonel and Shadrach Walton as major; and the second to be commanded by Francis Wainwright as colonel, with Samuel Appleton as lieutenant-colonel and Daniel Davison as major.

Meanwhile Winthrop appears to have sent another letter, which has not been found but which reached Dudley after he had written a reply to Winthrop's letter of the twenty-seventh. To both of these letters Dudley replied in the following letter and postscript:—

"BOSTON, 31 March, 1707.

S^r. — I have your letter of the twenty seventh instant, and you will not complain that I wrot not positively to you before I did, when I shall tell you my letter was dated the same day the Generall Assembly of this Province graunted the money necessary for the expedition; till when I could say nothing to my self & less to my neighbours, which was the only reason I only askt your own private opinion in my first letter. I shall not stand upon your want of transports, but can supply them here; but am in great want of powder & am constrained to take what merchants powder is in town, tho' at a dear rate. You will please to send your men with what you can & I will supply what is possible. I have given the superiour comānd to Colonel March, a very good officer, & so well esteemed that I hope to impress no man into the service. I shall make two regiments, the one comānded by Collonel Winthrop Hilton, your kinsman as well as my own, the other by Colonel

* See a computation of the relative population of Connecticut and Massachusetts, foot-note on p. 420, *ante*.

† This appears to be the order of precedence in the original arrangement of the staff, as shown in the archives. Hilton's regiment is also mentioned first in Dudley's letter of the thirty-first of March to Winthrop, printed above. The change of precedence of the two regiments seems to have been an afterthought, and made, probably, to conciliate the Massachusetts rank and file, as well as to remove all cause for jealousy on the part of the Massachusetts officers.

Wainwright; and it is too much for mee to say unless you allow mee the freedom, y^t if you please to send mee Major Whiting with a good party, I will distinguish him as his character deserves, but that must be as you please. Your officers & soldiers shall be honorably treated, and I doubt not they will deserve it. I hope to have the Queen's ship, the Province galley & a number of transports, & one thousand men, at Nantasket on Thirsday the seventeenth of April, ready to sayle with the first wind. I shall direct what I hope will be in their power, to leave no house standing in the French part, to destroy their stock & cut their banks, which will leave them no tillage; but the attack of the fort I shall leave to a Council of War upon the place, not doubting of their courage to do what is in their power; & I hope every body will be contented with the good providence of God, as I resolve to be. I pray to hear from you as soon as may be, & am, Sr,

Your very humble servant,

J. DUDLEY.

You will allow mee to give my service to the gentlemen of her Majesties Council & Assembly with you.

Postscript.

ROXBURY, April 1. 1707.

Sr, — Mr Woodward is returned with your letter since the letter on the other side was written. I think it wants no answer but the method of your men coming to Nantasket our rendezvous, I having already acquainted you that I will provide transports from hence & other articles. I hope what I have written will be to your satisfaction. There is no possibility of your men coming by water; round the Cape is so farr & uncertayn that all may be lost in our long attendance. There is no way left but by land for your vpper men; any of the sea force may come, if they please, by water to Road Island, if the wind serve. Those that come by land may ease themselves on horse back a day or two's journey & a few men will drive homewards a great number of horses. But I must leave that to your own resolve at last. I am Sr,

Your very humble serv^t,

J. DUDLEY.

If you advise of your men coming, I shall wayt two days beyond the seventeenth abovesaid." — *Ibid.*, p. 374.

Upon the receipt of the above letter Governor Winthrop communicated it to the assembly, as appears by the following entry which shows also the action thereupon taken by the legislature: —

"[April 2, 1707.] The Governour (after the opening of the Court,) informed the Assembly that the occasion of his calling them together at this time was a letter that he had received from Governour Dudley, wherein his Excellency signified to him that upon the earnest desire of the General Assembly of his Province he determined to raise a thousand men for an expedition against the French and Indian enemies in L'Acadie and Nova Scotia, desiring that forces might be sent from this Colonie to joyn with them.

His Excellencies letter was read in Council, with other letters relating to that expedition.

The Court was adjourned to the 3d day of the month at eight of the clock in the morning.

April 3d. The Assembly being convened, a committee was appointed to consider and prepare an answer to Governour Dudleys letter. The persons appointed are Capt. Nathan Gold, William Pitkin, and Major John Chester for the Upper House.

A bill was drawn up, presented and approved by both houses, in answer to the said letter, in the words following, viz: —

This Assembly having considered the motion of his Excellency Governour Dudley to our Governour, for joyning the forces of this government in his expedition against L'Acadie and Nova Scotia, are of opinion that it is not their duty under their present circumstances to comply with the said motion; and therefore for divers reasons do decline the same. (1st.) They have not been of council in, nor had opportunitie of consent unto the said expedition. (2ly,) They do not understand that the neighbouring governments, who are equally obliged, are concerned therein. (3.) Which is very considerable, the vast expence this government hath been out in the defence of the countie of Hampshire and their own frontiers, doth very much incapacitate them, and what may be further expected of like nature doth altogether discourage from joyning in such an enterprize." — *Colonial Records of Connecticut, 1706-1716*, p. 17.

The final declination of Connecticut to join the expedition was communicated to Dudley by Winthrop, as follows: —

"HARTFORD, April 4th 1707.

Sr, — I have yo^r Exclly's letter of the 1st instant, by your expres, as I am setting out from hence to New London. The General Assembly being dismist last night, they have desired me to signify to yo^r Exclly that, considering their present circumstances, they are not able to assist in the designe, and they think they should have been of council to consult and agree the methods of prosecuting the undertaking. And farther, that the shortness of tyme makes it impossible to raise a fitting number of men and march them to Boston by the tyme you mention. Everybody wishes well to the designe and would be glad to share in the trouble and danger, as well as the honour, of the expedition; & I wish I could any way contribute to it. I am, Sr,

Yo^r very humble serv^t!

J: WINTHROP." — *Win-*

throp Papers, part V., p. 376.

The response of Rhode Island to Dudley's request was more gratifying. The letter addressed by him to Cranston on the twenty-fourth of March was as follows: —

"Sr I had your very kind letters last post and delayed my answer till I might acquaint you of the Resolution of the Generall assembly here who have Earnestly moved mee to Rayse & Equip 1000 men for an Expedition to La Cadie & Nova Scotia. & I hope to be ready in all poynts by the 15 of April with two shippes of warr and transports necessary & ten weeks provision to which I may after adde as ocasion may be, & accordingly desire

you will proceed to Rayse the men which your General assembly have granted for that purpose & I pray they may be ready by the time. they may either Come in here or at piscataq; as the weather will allow,

I hope Major Wanton will not fayle of his service in the Expedition, if his occasions absolutely demand his stay at home I shall be glad of his brother & shall treat him with respect due to his Character & Her majestyes service in which we are all Equally Engaged,

you will please to let mee hear from you every post

I am sr your very humble servt

J D

24th March,

Govr Cranston./.

Sr If a further number of yor people of 40. or .50 will voluntarily offer themselves to this Service of so general advantage to y^e whole Country, I will Entertain them upon our Establishment for Wages and Substantice." — *Mass. Archives, vol. 2, p. 156.*

The Governor's application to his northern province was not a request, but a command. In his letter (drawn on a paper dated the 24th) to the council of New Hampshire he gave directions for providing rations and ammunition. The determination of the number of men required to form the quota of that province he postponed until the return of Colonel Hilton, who was still absent upon the expedition to Kennebec. The letter was as follows:—

"Gentlemen

I hope by this time Colonel Hilton may be returned & I am now to acquaint you that the General assembly of this province have earnestly moved for an Expedition to the Eastward & have desired me to Rayse one thousand men for that service of which a propper & Just Quota must be yours which I shall determine & direct as soon as I can see Colonel Hilton,

I Desire & Direct that the Gentlemen of the Council forthwith sit to see that their be victuals and ammunition in readiness for the service; against the middle of april next & particularly I Do hereby direct that Mr Treasurer provide ten barrells of powder so much thereof as is in the province store besides what is necessary at the fort I shall be Content to account as part the rest must be immediately by warrant taken into the publick; store out of the merchants & Inhabitants hands where soever, & do order that warrants be given out to the sheriff accordingly he giving receipt for the same to be paid for at an Equal price by the General assembly next Coming.

This is the Joynt service & benefit of all her majestyes good subjects of all the provinces & I perswade my self nobody of any Consideration but will at your desire bring in what powder they have, but have directed as aboue upon the last necessity, The secretary must signe the warrants with the Consent of the Council sitting upon the Governours letter read at the board,

I pray you not to fayle me in what is aboue I hope to see you about 20 days hence

I am Gentlemen

your humbl servt

J D

Council of N Hampshire." — *Ibid.*

Although the date given to it in the record was a week earlier than that above given, this letter seems to have induced the council of New Hampshire to take the action recorded as of the twenty-seventh of March. The record is as follows:—

"His Excellency's Letter, dated Boston, 17th [March] 1706, was communicated to this Board relating to an Expedition to the Eastward &c. agst the common Enemy; and that victuals ammunition, &c. should be in readiness against the middle of April next, and that ten barrls of powder be provided, if soe much thereof as is in the Province Store, &c.; the rest to be immediately by warrant taken into the publick store out of the merchants and inhabitants hands wheresoever; and that warrants be given out to the Sheriffe accordingly.

The Treasurer being asked what money or provisions was in the Treasury and what powder were in the stores, he answered, that pursuant to warrants signed by his Excellency, and the late Expedition of Col. Hilton and souldjers, the money and provisions were all exhausted, and gone out of the Treasury; and what powder were paid him for Shipping, according to Law, he had delivered the same to Major Walton, Commandr of her Majesty's Fort.

Ordered that the Secretary issue forth a special warrant to the Sheriffe for the impressing tenn barrells of powder for her Majestys Service, out of the Merchants and Inhabitants hands of this Province, or soe many Barrells of powder as the Sheriffe may find; and that the Sheriffe give a receipt to all persons from whom he shall impress such powder, according to the quantity of powder so impressed.

Ordered that Robert Elliott and Saml. Penhallow Esq. be a Committee to inspect into the publick stores of her Majestys Fort Wm. and Mary, and make their Report to this Board at their next sitting.

WM. VAUGHAN." — *Pro-*

vincial Papers of New Hampshire, vol. II., p. 497.

In order to influence the people of New Hampshire more effectually Dudley proceeded thither on the second of April, ostensibly to review the standing forces and the new levies for the expedition.* On the seventh he met the New Hampshire assembly and addressed them as follows:—

* "April 1, 1707. Advised and Consented. That a Warrant be made out to the Treasurer to pay the sum of twenty five pounds to Mr William Dudley for the support of his Excell^ys attendants and Guards in his journey Eastward to review the standing forces, and the new Levy's for the intended expedition to Nova Scotia. &c." — *Executive Records of the Council, vol. 4, p. 386; and see Mass. Archives, vol. 122, p. 279.*

"His Excellency on Wednesday last went for his other Government of New Hampshire." — *Boston News-Letter, No. 155. March 31 to April 7, 1707.*

"Piscataqua, April 4. His Excellency is expected here this night from his other Government of the Massachusetts-Bay." — *Ibid.*

"Gentlemen:—

The openness and uncertainty of the weather this winter has prevented us from doing what we intended against the enemy; yet we are to acknowledge the good Providence of Almighty God, that we have been preserved from any inroad, and have had so good an advantage against the Rebels the last March.

At the earnest solicitations and motion of the Assembly of the Province of the Massachusetts, I have entered upon an expedition to Nova Scotia and L'Acadie, to make what spoil I can upon our ill neighbors, the French there inhabiting, and shall have a thousand men ready in ten days' time with provisions and Transports, besides some assistants which I hope from her Majesty's Government of Connecticut and Rhode Island, and must expect a just quota from you for that service. I shall at present only draw out sixty volunteers with officers, for whom you will, I doubt not, take care to provide.

Mr. Treasurer will show you the present state of your Debts and what will be necessary for the advance, and I desire you will proceed cheerfully to grant the supply; the time is very short, the day of the muster of the forces being the seventeenth instant, require me to be in the several parts, to review such men as are raised, — That I must desire you forthwith to dispatch what is before you. I have always taken care that this little Province be not overburthened, and that your money may be justly expended; which I shall always continue to do, and expect your readiness to grant what is necessary accordingly." — *Ibid.*, vol. III., p. 339.

On the next day they passed the following order:—

"Ordered, That the Sloop Adventure, belonging to Chr. Amazeen and Joseph Jackson, be taken into her Majesty's Service upon an expedition to Nova Scotia and L'Acadie, And that Mr. Elliott be desired to see that a platform be laid in the said sloop, and that the said Chr. Amazeen and Joseph Jackson provide two able men to sail the sloop, which shall be in pay from the ninth instant; and Robert Elliott, Esq., is hereby ordered to give the accustomed Oath to three sufficient persons as apprizers, to value and appraise the aforementioned Sloop, and to make return thereof into the Secretary's office." — *Ibid.*, p. 341.

The following proceeding then took place in the house of representatives:—

"A vote was sent up by the Assembly returning the thanks of the whole House for his Excellency's Speech, desiring his Excellency to proceed in sending men upon the expedition to Nova Scotia and L'Acadie, and are willing to raise money for that expedition in proportion of their quota, &c." — *Ibid.*, p. 343.

The council of New Hampshire passed further orders on the seventeenth; viz.,—

"Whereas the Honble the Lt. Govr did on Tuesday last issue forth his Warrant for Impressing of the Sloop Sarah and Hannah, Capt. Samuel Winckley Commander, as a transport in carrying souldjers upon an Expedition to Nova Scotia and L'Acadie, and his Honour having acquainted this Board thereof, the Council did well approve and allow of the same, and Ordered that Capt. Winckley be allowed as much *P mensem*, pro Rata, for the service of the said Sloop and Mariners on board, as the Transports in the Massachusetts Governmt shall be allowed upon the same Expedition.

Ordered, that the Secretary issue forth a Warrant of Apprizement directed to Robert Elliott, Esq. Messrs. Richard Forster, Andrew Pepperel, Richard Wybird, and John Frost, or any three of them to value and appraise the abovesaid Sloop, with all her furniture, tackle, apparel &c. to her belonging, and to take an Inventory thereof, and the said Inventory to deliver into the Secretary's office upon oath, immediately after the same shall be taken.

Ordered, that the Secretary issue forth a warrant to the Sheriffs or Constables of Portsmouth to Impresse Abraham Lewis, of Greenland, as a Pilot, to go in the said Sloop upon the said Expedition, and that when the said Abraham Lewis is imprest he is to enter into her Majesty's pay according to custom, and to go on board the said Sloop and observe his duty as a Pilot under the command of the said Samuel Winckley, during the continuance of the said Expedition." — *Ibid.*, vol. II., p. 502.

The sum of the quotas calculated upon by the council of war on the twenty-fourth of March had amounted to ten hundred and thirty privates, including those of New Hampshire and Rhode Island, and one hundred Indians from Colonel Church, to be commanded by Captains Constant Church and John Cook, and fifty more from the department of Colonel Thacher of Barnstable. For supplying these Indians with necessaries, and to support their families in their absence, it was proposed to advance funds to the colonels in whose departments, respectively, they belonged. One hundred pounds therefore had been advanced to Colonel Church and fifty pounds to Colonel Thacher, "the said Colonels to be accountable for the disposal thereof."

From change of plans and from unlooked-for circumstances the actual number of the enlisted varied from day to day in the total number as well as in the particular quotas estimated.

On the twenty-fifth a plan of organization was decided upon for the fleet, and a committee appointed "to take up, appraise, and assist Mr. Commissary in equipping, the transports." The flotilla, in addition to the Deptford and her tender, the Province Galley and the brigantine Hope (which was to be put in commission as a cruiser for the coast), was to consist of ten transports, comprising two ships, four brigantines, and four sloops, besides forty whaleboats, twenty-eight of which were to be impressed at Barnstable and twelve at Plymouth. The ships were to be one of two hundred and fifty and the other of one hundred tons burden, the smaller one double-decked and fitted for a hospital. Arrangements were also made for inspecting and appraising the whaleboats. It was also settled that "a proper person be appointed to prepare the fireworks and to arm the fuses of the hand grenades."

On the twenty-sixth the procurement of clothing, colors, drums, trumpets, intrenching tools, and other equipments was provided for.

On the twenty-seventh "The Committee [on transports] Reported a number of Ships, Briganteens & Sloops which they thought fit for the Service.

And nine of the^s Ships, Briganteens and Sloops, were marked to be Employed in the present Expedition,* And an Order made to the Committee to make known the same to the Owners, That they may proceed to fit and Equip them, and the Committee Directed to See that they be suitably fitted for such an Expedition.—

And that they Apprize them, and make known to m^r Commissary General when they are ready."† On the next day it was ordered that the transports selected by them "be received into pay upon Thursday the Tenth of April next," and the same committee were ordered "to Notify the Owners thereof That they may get them ready accordingly by the time," the Commissary-General "in the Interim to provide the Materials and be in readiness for laying of the Platformes."‡

The grenades and grenadiers' pouches§ at the South Battery were ordered to be inspected, put in order, and enough pouches made ready for delivery to the Commissary-General to make up the number of one hundred. The committee of inspection reported the same day. On the twenty-ninth, as previously stated, the chief military officers of the expedition were designated.

On Monday, the first of April, the Council, upon notice of the selection of March as commander-in-chief and Hilton as colonel, ordered a warrant upon the province treasurer to advance twenty pounds to the former and twelve pounds to the latter "to provide their Equipage and bear their charges in the raiseing of men for the same."§ On the same day the council of war made provision for a supply of hand grenades, four field-pieces, eight gun-carriages, etc.; and on the fifteenth they ordered that six large open sloops for transporting the whaleboats be taken up by the committee, and fitted.

As the time drew near for the "grand parade" at Hull and the gathering of the fleet at Nantasket there were indications of popular excitement and anxiety. Mr. Noyes, the minister of Salem, at the Salem lecture on the ninth, and Mr. Bridge of the First Church, Boston, at the Boston lecture on the tenth, had preached sermons encouraging the expedition. On the eleventh Increase Mather, then at the height of his bitterness against Dudley, had thrown the weight of his great influence against "the uncertain expedition," as he called it.||

The Legislature, which assembled on Tuesday, the fifteenth, was adjourned to the seventeenth in view of the solemnities of the intervening fast; but before adjournment the Governor intimated to them that his purpose in proroguing them to the fifteenth had been "That the Assembly might be inform'd of the Advance made towards the intended Expedition to Nova Scotia & L'Acadie:

And Directed Andrew Belcher Esq^t & Ephraim Hunt Esq^t to Acquaint the House of Representatives That he would see the House on Thursday Morning next, & Open that Affair to them. . . . And also directed a Message by them to the House To propose to their Consideration an Advance of the Officers Wages on Board the Transports already sett by the Establishment, & for such Officers as are necessary on Board greater Ships taken up for that Service, for their Encouragem^t in the present Expedition."¶

In compliance with the above intimation the order which constitutes chapter 150, *post*, was passed, on the seventeenth, and, at the same time, the Council voted their advice to the Governor respecting the adoption of articles of war, as follows:—

"Several Rules and Articles of War, collected out of those formerly established by the Government of the late Massachusetts Colony *Anno* 1705. and out of those publish'd by Command of their late Maj^{ties} King William and Queen Mary, and the Laws of this Province, were distinctly read over, and consented to—And.

Advised. That his Excellency direct the observance and exercise of them, for the Government of the Forces in the present intended expedition to Nova Scotia & L'Acadie."—*Executive Records of the Council*, vol. 4, p. 392.

Although the time prefixed for the grand parade at Hull was Saturday, the nineteenth, it appears that some, at least, of the companies failed to reach the rendezvous until the following Monday when the troops marched from Weymouth,** the home of the Rev. Samuel Torrey, whose decease on that very day, as shown in the note to chapter 145, *post*, added to the gloom which attended the setting forth of the ill-fated expedition.

On the twenty-second the Commissary-General received orders from the Council to procure, "on the best terms he can," enough gunpowder to make up, with what could be supplied out of the public stores, the one hundred†† barrels authorized by the present chapter.

* The Success Galley, which was of extraordinary size, and fit to carry an armament of fourteen guns, was impressed on the seventh but appears not to have been fully equipped until after the seventeenth. See chapter 150, *post*, and note.

† Mass. Archives, vol. 71, p. 298.

‡ See foot-note on p. 715, *post*.

§ *Executive Records of the Council*, vol. 4, p. 386, and Mass. Archives, vol. 122, p. 280.

|| Sewall's Diary, vol. II., p. 184.

¶ Council Records, vol. VIII., p. 289.

** Sewall's Diary, vol. II., p. 185.

†† It appears that there was delay in getting this supply of powder, since, three days later, Belcher was ordered to procure thirty barrels "of good approved gunpowder . . . at the best rate he can, not exceeding twelve pounds per barrel;" and Captain Nathaniel Holmes, with such person as Colonel March should appoint, was assigned to "view and approve all the gunpowder to be sent on the present expedition that it be good and fit for the service;" and on the sixth of May Belcher was ordered to further purchase thirteen barrels to make up his complement of one hundred. On the fifteenth, an account was presented to the Council, and allowed, for thirty-seven barrels of gunpowder, bought of Nicholas Roberts, merchant, at twelve pounds per barrel, and a warrant for the payment of the amount (four hundred forty-four pounds) to Roberts was thereupon ordered. Nothing has been discovered to show that the before mentioned quantities of thirty and thirteen barrels were purchased; but on July 10, 1707, "pursuant to a resolve passed by the General Assembly at their session begun the fifth day of March past, that one hundred barrels of gunpowder be procured for the expedition," etc., it was ordered that the "Commissary-General take care to purchase a quantity of good powder, not exceeding fifty barrels, for the public service, which he informs is to be had of Mr Nicholas Roberts, merchant, at the rate of twelve pounds per barrel, as he gave for the former;" and the issue of a warrant upon the treasurer to pay for the

On the same day, also, the Governor announced to the Council that George Jackson and Robert Ellis, surgeons, had been treated with and accepted as master surgeons for the expedition, upon the established wages, "and to have eighteen pence per head for one thousand men, to be advanced to them for the fitting themselves with chests, medicines, instruments and all other materials and utensils in the way of their profession and practice at their own charge, not to be accounted for," and "to be surveyed by Doctor Clark and Doctor Noyes to see that they be good and sufficient in quantity,—each of them to have two mates or assistants in the province pay,—the chirurgions and mates to enter into pay this day." A warrant upon the province treasurer was accordingly ordered for paying them seventy-five pounds as "advance of head money."

Immediately thereafter the following vote of advice was passed in Council:—

"April 22, 1707. Upon consideration of the Intended Expedition to Nova Scotia & L'Acadie, which demands a considerable number of Vessels and Seafaring Men; besides the Guards for the Coast, dureing the absence of the ships of War upon the expedition.

Advised. That his Excellency emit a Proclamation for an Embargo* within both his Governements to continue until the last day of June next. As also to publish the encouragement to Seamen to enter themselves in her Majty's service on the said expedition."—*Executive Records of the Council*, vol. 4, p. 394.

The work of organizing the forces, issuing instructions, and granting commissions and warrants to officers, proceeded briskly. Although the Commander-in-Chief and his staff were notified of their appointment in March, it was decided later that all commissions in the land force should bear date the twenty-third of April, except those of the lieutenant and ensign in Major Walton's company, which were to bear date the sixth of May—their men, apparently, not being assigned to them until the latter date, and being probably recruits, in part, at least, from the forces which had recently returned from the expedition to Kennebec under Colonel Hilton.

Before the organization was completed, however, some changes were made in the disposition of the staff of the Commander-in-Chief.

On the twenty-fifth of April a letter to each of the colonels in command of the expedition was prepared, directing them to procure the captains of the companies of their respective regiments and send to the Governor perfect rolls of all the officers and soldiers of their several companies, with the number appearing at the general parade and the dates and names of subsequent enlistments.

From the sum of the rolls thus returned and the additions thereto made the roster† hereinafter given of the land forces has been compiled. The actual number on parade at Hull on the thirtieth of April appears to have been nine hundred twenty-nine—both companies of grenadiers being absent.

On the twenty-eighth William Barnsdale was nominated as captain of the ordnance, and John Gyles as field marshal, and the Governor directed the Secretary to prepare their commissions accordingly, as also four warrants "for the field officers to raise men," the "date to be prior to their commissions."‡ These warrants evidently were to enable them to complete the required contingent by impressment, if necessary. On this day, also, the Governor minuted the following paragraph, apparently intended to be included in his instructions to Captain Stucley:—

"When you come into the Bay, Send one or more of yo^r Transports before the Fleet, to the Gnt^y to Surprize and take the looke out there, and to Effect it by night if it may be."—*Mass. Archives*, vol. 71, p. 332.

On the twenty-ninth,—besides the preparation of a letter of instructions to Benjamin Cranston, in command of the sloop sent by the Governor of Rhode Island to transport the auxiliary company from that colony under Lieutenant-Colonel Wanton, and the passing of an order that the general officers "enter into pay the fourth of April, 1707,"—five chaplains, the master-gunner, and the field marshal were appointed. On the thirtieth Samuel Lawrence was appointed and commissioned "captain of the whaleboats." On the third of May appointments were made of an armorer, and a master of the bombs (for whom warrants were prepared of the same date), and a "secretary at war for the present expedition" was appointed and commissioned. At the same time Shadrach Walton was nominated and commissioned "adjutant major" to both regiments. Two assistant surgeons—Israel March, who came from Casco Bay on the twenty-seventh of April, and Richard Winslow—were received into the service; the former as of the date of his arrival, and the latter as of the fifth of May. To Colonel Redknapp was assigned the com-

same was advised by the Council. Another vote of advice, on the thirty-first, fixed the amount to be paid to Roberts at five hundred seventy-six pounds, for forty-eight barrels purchased of him under the order of the tenth of July. For the province treasurer's entry of the payment for this powder see note to chapter 32 of the resolves of 1707. See also chapter 25 of that year and the note thereto.

* No copy of the proclamation of this embargo has been found, but that the embargo was actually enforced appears from the following entry:—

"May 15, 1707. Ordered. That the Embargo laid upon shipping the 22^d of April past, be relax'd and taken off, and the several Officers are directed to grant clearings for outward bound ships and Vessels as accustomed.

Executive Records of the Council, vol. 4, p. 400.

J: DUDLEY."—*Exec-*

† The roster of the army and fleet so far as it has been ascertained is given as a supplement to this note, and is followed by such of the instructions, commissions, and warrants of the several officers as have been preserved. The narrative of Rev. John Barnard, one of the chaplains in this expedition, has been much relied on in compiling the roster. It is printed in *Mass. Hist. Soc. Coll.*, third series, vol. V., pp. 159-196. In endeavoring to give the correct names and residences of the officers mentioned even Barnard's authority has been sometimes rejected, and with all the aid that could be obtained from the state archives, other contemporary records and the works of genealogists some statements here made rest chiefly upon conjecture.

‡ *Mass. Archives*, vol. 71, p. 333. The commissions of the field officers were ordered to bear date the fourth of April.

mand of the gunners, bombardiers, etc., and his commission was ordered to bear date the sixth* of May; and it was determined that the warrant of Matthias Ellis, as "first sergeant of the whaleboats" under Captain Lawrence, should bear date the ninth of May. On the sixth, it having been determined that "a particular company" be drawn forth out of the forces of Major Walton, James March, junior, was nominated to be his lieutenant and Hugh Pike to be his ensign, and "commissions were severally made out to them dated the sixth of May."

Instructions to Stucley had been issued on the second of May; and, on the fifth, he received from the Governor orders to be ready to sail promptly upon notice. On the twelfth, everything being ready, the Governor ordered him to give the signal for sailing, and, accordingly, on the next day, at sunrise, the fleet departed from Nantasket for the harbor of Port Royal.

ROSTER.

Commander-in-Chief:

Col. JOHN MARCH, Esq., of Newbury.

Field Officers:

FIRST REGIMENT (*of the red*).

Francis Wainwright, of Ipswich, col.;
Samuel Appleton, of Ipswich, lieutenant-col.;
Shadrach Walton,† of New Castle, N. H., major.

SECOND REGIMENT (*of the blue*).

Winthrop Hilton, of Exeter, col.;
John Wanton, of Newport, lieutenant-col.;
Robert Spurr, of Dorchester, major.

Companies:

Col. Wainwright, captain;
Matthew Perkins, of Ipswich, lieutenant;
Abraham Tilton, of Ipswich, ensign.

Col. Hilton, captain;
Samuel Chesley, of Durham, first lieutenant;
Thomas Tibbetts, of Dover, second lieutenant;
Joseph Hilton, of Exeter, ensign.

Lieut. Col. Appleton, captain;
Isaac Appleton, of Ipswich, lieutenant;
Edward Wade, of Ipswich, ensign.

Lieut. Col. Wanton, captain;
Nicholas Easton, of Newport, first lieutenant;
Jonathan Cudworth, of Scituate, second lieutenant.

Major Walton, captain;
James March, jun., of Newbury, lieutenant;
Hugh Pike, of Newbury, ensign.

Major Spurr, captain;
Barachias Lewis, of Dedham, lieutenant;
Isaac Newell, of Roxbury, ensign.

Nathaniel Holmes, of Boston, captain;
Thomas Powell, of Boston, first lieutenant;
Arthur Mason, of Boston, second lieutenant.

Stephen Otis, of Scituate, captain;
Samuel Sprague, of Duxbury, first lieutenant;
Thomas Oakes, of Eastham, second lieutenant.

Richard Gridley, of Boston, captain;
Richard Flood, of Boston, lieutenant;
Ichabod Williston, of Boston, ensign.

Thomas Nichols, of Reading, captain;
Thomas Boutwell, of Reading, lieutenant;
Samuel Barnard, of Watertown, ensign.

Joseph Boynton, of Topsfield, captain;
Thomas Gage, of Rowley, lieutenant;
Joseph Jewett, of Rowley, ensign.

Samuel Frothingham, of Charlestown, captain;
Isaac Williams, of Newton, lieutenant;
Miller Frost, of Charlestown, ensign.

Theophilus Burrill, of Lynn, captain;
John Poole, of Lynn, lieutenant;
Hauaniah Hutchinson, of Lynn, ensign.

Thomas Tilestone, of Dorchester, captain;
John Ashcroft, of Hatfield, lieutenant;
Caleb Lyman, of Northampton, ensign.

Jonathan Putnam,‡ of Salem, captain;
Thomas Whitredge, of Salem, lieutenant;
Josiah Willard, of Salem, ensign.

Jared Talbot,§ of Taunton, captain;
Samuel Peck, of Rehoboth, lieutenant;
Jeremiah Whipple, of Cumberland, ensign.

* "May 6, 1707. Advised and Consented. That the sum of thirty pounds be advanced to Col^d John Redknapp her Majty's Engineer for his Equipage in the present Expedition to Nova Scotia. And that a Warrant be made out to the Treasurer to pay him the s^d sum of thirty p^{bs} accordingly." — *Executive Records of the Council*, vol. 4, p. 398.

† On the third of May a commission was made out to Shadrach Walton as adjutant-major to both regiments.

‡ "Paid Capt Jona Putnam & Capt Benja James & ye Compa^y t^h served her Majtye sometime under s^d Capt Putnam & afterwards under s^d Capt James on ye Late Expedition to Nova Scotia from April to Sept. 1707 295 „ 9 „ 5."

— *Mass. Archives*, vol. 129, p. 16.

§ This company was composed partly of Indians.

James March, of Newbury, captain;
John Foott, of Amesbury, lieutenant;
Samuel Swan, of , ensign.

John Hunt, of Weymouth, captain;
Ephraim Hunt, jun., of Weymouth, lieutenant;
James Nash, of Weymouth, ensign.

Richard Kent, of Newbury, captain;
John March, jun., of Newbury, lieutenant;
Benjamin Smith, of Newbury, ensign.

John Cook,*† of Dartmouth?, captain;
Amos Sheffield, of Portsmouth, R. I., lieutenant;
Ephraim Thomas, of , ensign.

Caleb Williamson, of Barnstable, captain;
Jonathan Bassett, of Sandwich, lieutenant;
Shubael Gorham, of Barnstable, ensign.

Constant Church,* of Freetown, captain;
John Richmond, of Little Compton, lieutenant;
Nathaniel Williams, of Taunton, ensign.

Edmund Freeman,* of Harwich, captain;
Ephraim Morton, of Plymouth, lieutenant;
Joseph Freeman, of Harwich, ensign.

Surgeons.

Master Surgeons:

George Jackson, of Scituate,
Robert Ellis,‡ of Boston.

Surgeons' Mates:

Israel March, of Newbury,
Richard Winslow, of Freetown.

Chaplains:

Daniel Epes, of Salem,
Samuel Moody, of York,

Samuel Hunt, of Dunstable,
John Barnard, of Boston,
William Allen, of Greenland, N. H.

Secretary of War:

William Dudley, of Roxbury.

Commander of the Ordnance:

John Redknap, of the Royal Engineers.

Master Gunner:

William Barnsdale, of Boston.

Bombardiers:

Samuel Clough, of Boston, Master;
Nicholas Boone, of Boston.

Armorer:

Cotton, of

Field Marshal: §

John Gyles,|| of Salisbury.

Commissaries: ¶

Pelatiah Whittemore, of Kittery,
George Turfrey, of Saco,

Arthur Jeffries,** of Boston,
Vincent Carter, of Charlestown,

Thomas Webster of Kingston, N. H., "*sub-commissary.*"

* This company was composed partly of Indians.

† "Captain p^t of y^e time & Cap^t Amos Sheffield y^e remaynder." — *Mass. Archives*, vol. 123, p. 19.

‡ Under date of March 30, 1699, Sewall makes the following entry in his diary: — "I had the innermost Tooth save two on the lower left jaw, pulled out by Robert Ellis. It was in two pieces. It was loose and put me not to much pain." — *Vol. 1*, p. 494. He mentions Ellis again, January 18, 1711-12, as "chirurgeon."

§ Or Provost Marshal. Barnard says there were two of these officers. This statement receives some confirmation from the following minute by Dudley, preserved in the archives, immediately under the line naming Barnsdale captain of the ordnance: —

"foild marshall & second . . ." — *Vol. 71*, p. 333.

|| "April 19, 1708. Advised and Consented, That a Warrant be made out to the Treasurer to pay the sum of ten pounds, to John Gyles in full for his service, as Field Marshal to Her Maj^{ty}'s Forces in the late Expedition to Nova Scotia, he having already received pay for the most part of the time as a Sea Pilot." — *Executive Records of the Council*, vol. 4, p. 562.

¶ Andrew Belcher, of Boston, being commissary-general.

** See note to chapter 27 of the resolves of 1707, on p. 724, *post*.

*Pilots:**

John Collins, of Salem, on the Deptford, Francis Loud, of on the ship Success Galley }
 Abraham Lewis, of Greenland, N. H., on the sloop Sarah and Hannah.

Ships of War, and their Commanders:

The Deptford, of the Royal Navy, fifty guns; The Province Galley, twenty-four guns;
 Charles Stucley, captain, Capt. Cyprian Southack, of Boston.
 Thomas Sutton, captain of the marines.
 Sloop Dove, *tender*.
 Captain Timothy Cunningham, of Boston.

Transports and their Commanders:

Ship Success Galley,† fourteen guns; Ebenezer Wentworth of Boston. Sloop Boneta; John Seccomb, of
 Ship Abigail; Henry Dering, of Boston. Sloop Mary and Abigail; Thomas Newman, of Ipswich.
 Ship Francis,‡ four guns; John Jarvis, of Boston. Sloop Henrietta; John Phillips, junior, of Charlestown.
 Brigantine Hannah and Mary; Joseph Gallop, of Boston. Sloop Richard and Sarah; Richard Carr, of Salisbury.
 Brigantine Randolph; Zechariah Fowle, of Salem. Sloop Mary; Robert Sanders, of Boston.
 Brigantine Abigail; Isaac Fowle, of Charlestown. Sloop Bathsheba,§ eight guns; Benjamin Cranston, of Newport.
 Brigantine Friendship; Ebenezer Dennis, of Sloop Sarah and Hannah; || Samuel Winkley, of New Castle.
 Brigantine Hope; ¶ Samuel Waters, of Salem.

Thirty-six Whaleboats.

Samuel Lawrence, of , Captain;
 Matthias Ellis, of Sandwich, first Sergeant.

*Open Sloops for the Whaleboats.***

Success; Stephen Poor, of Newbury. Success; Joseph Gardner, of (Nantucket?)
 Charity; Samuel Hill, of Wells. Endeavor; Gideon Lowell, of Newbury.
 Speedwell; Elisha Corney, of Gloucester. Adventure; Nathaniel Atkins, of Truro.
 Trial; Isaiah Young, of (Eastham?) Brothers' Adventure; Jonathan Young, of Eastham.

* These were the chief pilots but others were employed on this expedition, as shown by the following memoranda:—

"A list of ye Names of those that are Summoned to appear before His Excellency forthwith in order to proceed as Pilots in ye present Expedition To Nova Scotia. May 5. 1707 & Sent on board ye Speedwell Elisha Corney master For transportacon to Nantasket

aboard	{ William Woodbery Marke Hascoll Robert Rowles John Webb John Ellwell John Webb Timothy Soames.	} all these Six Said to be very good pylots for port Royll & Nova-Scotia Coast Likewise —
aboard	{ John Allen Humphrey Woodbery Samuel Lambert Christopher Browne a prattling old fellow chiefly knowing on ye land amongst ye habitations at port Royall	
	{ Michael Coombs Charles Green	} good Pylots for ye Coast of Cape Sables <i>alias</i> Nova Scotia & off ye Cape of Marblehead both abscond after Sumoned Excellent first rate pylots." — <i>Mass.</i>

Archives, vol. 71, p. 316.

"May ye 2 1707 Theas Are To Certify whome Itt may Consarn That Capt^e John Bonner, was pilot of The ship Success Gall: from Boston to Nantasket
 Wittnes My hand
 p. 312.

EBEN^e WENTWORTH." — *Ibid.*,

† The store-ship.

‡ The hospital.

§ The Rhode-Island transport.

|| The New-Hampshire transport.

¶ Although It was at first intended to send out the Hope for coasted defence her service In that line, if actually undertaken, was short, since she seems to have proceeded with the fleet as a transport. More than two weeks after the suspension of the embargo an order was passed In Council for equipping and arming the brigantine Dragon, commanded by Captain Blew, as a vessel of war, to cruise upon the coast (May 30, 1707: Executive Records of the Council, vol. 4, p. 409), the customary precaution of sending out an armed vessel to protect the fishery having, apparently, been neglected. An express having reached the Governor from Plymouth on the nineteenth of July with the tidings that a French privateer seen off that town had taken a sloop the day before, His Excellency ordered Blew, then lying at Nantasket, with ten guns and eighty men, to proceed In quest of the privateer. By the twenty-eighth the Dragon had returned without finding the enemy.

** Two of these may have been tenders, since the number of sloops given is six, and Barnard, in his narrative, mentions two tenders to Captain Lawrence of the whaleboats.

INSTRUCTIONS.*

Letter to the Colonels.

Sir:

Boston, 25th of April, 1707.

Whereas I ordered the draught of one thousand effective men of the militia in the several parts, volunteers, for the land force in the intended expedition for her majesty's service to Nova Scotia and L'Acadie against her majesty's enemies, the French and the Indian rebels, appointing them to parade in their several counties upon Thursday the seventeenth of April current, to attend further orders; and I have disposed the said forces into two regiments, and given the command of the first regiment to yourself; —

I therefore direct you to order the captains of the several companies within your regiment to give you a perfect roll of all the officers and soldiers of their respective companies, and therein to note who and how many of them did parade on the said seventeenth instant, with the days and time of the others' enlisting. And you are to return the said rolls unto myself.

I am

your servant,

J. D.

Colonel Wainwright
and a like
to Colonel Hilton.

Letters to Captain Stucley:

Sir:

Boston, 24 May, 1707.

I desire you to take under your charge and convoy the fleet now ready to sail to Nova Scotia, and to direct their sailing and give them signals so as if possible to keep them together in their voyage, and to bring them to anchor in or before the harbor of Port Royal, where I think it best for Colonel March whom I have appointed commander-in-chief of the forces to land his men on both sides of the harbor to march up with all speed to take possession of the grounds above the fort, to cut off any communication with the country.

And if, upon view and consideration of the forces now going and the fortifications there, at a council of war, where I desire you always to assist, they shall resolve to lay siege or to assault the place, you will give all assistance you may, by your marines or sailors, so as you do by no means endanger her majesty's ship.

If you can bear upon your ship one foot company who may serve in their passage out and home, if there be any occasion, they shall be put on board, and Mr. Commissary-General will take care for their subsistence, who must be landed at the direction of Col. March for the service, everywhere.

I desire also that Major Walton may be entertained on board your ship, for the government of the company above, as well as for his own accommodation.

I am, sir, your very humble servant,

J. D.

Sir:

Boston, 5th May, 1707.

You had my letter the second, instant, referring to the care and government of the fleet in her majesty's service, bound to Nova Scotia, which I order you to attend, and to direct their sailing accordingly when I shall acquaint you of their readiness, who are to observe your order. At which time I also expect that her majesty's ship the *Deptford* be in all points ready for the service.

But whereas the transports have on board severally the officers, soldiers and stores and must visit several parts and places at such times as the Commander-in-Chief of the forces shall direct, I have ordered them while they remain in the river or parts of the country to attend his orders, to whom I have committed the management of the expedition. I have taken all the care possible for the manning of her majesty's ship the *Deptford* under your command as well as her majesty's Province Galley and the transports, out of whom I will have no men taken but by advice and direction of the Commander-in-Chief for the absolute service of the expedition.

I desire you as often as you can to assist at the council of war, taking your place next to the Commander-in-Chief with whom I desire you always to maintain a good understanding for the benefit and advantage of the service.

Direct a spy boat or lookout to cruise about Cape Sable to bring you intelligence of any of the enemy's ships approaching the coast; let it be your own tender, or one of the smaller transports as the Commander-in-Chief and yourself shall agree.

This being for her majesty's especial service and the service of her majesty's provinces under the government of

your humble servant,

J. D.

Sir:

Boston, 12th May, 1707.†

Pursuant to my order to you of the fifth current to direct the sailing of the fleet bound to Nova Scotia when I should acquaint you of their readiness, I now intimate to you that they are in all points ready, and therefore order that you cause the signal to be made for sailing, and with the first fair wind depart from Nantasket, and make your course as direct as may be to Port Royal, endeavoring to keep the transports and other vessels in your company, and take what care you can to carry them safe in with you. When you arrive there, I refer you to the observance of my former orders for the service.

And to continue in the country with her majesty's ship under your command so long as the service shall demand your stay, and until my further orders which you shall receive from time to time; and then to return back to Nantasket, taking a like care of the transports in your return.

I wish you a prosperous voyage, and am, — [etc. J. DUDLEY.]

* These forms, taken, generally, from the rough draughts, have been corrected as to spelling and punctuation; and, in some instances, words have been supplied.

† Sailing-orders.

To Captain Cranston.

Massachusetts Bay, 33 :

By his Excellency the Governor and Vice-Admiral, —

To Benjamin Cranston, gentleman, commander of her majesty's hired transport sloop.

The auxiliary company of soldiers, whereof Lieut.-Col. Wanton is captain, raised by the government of her majesty's colony of Rhode Island and Providence Plantations for her majesty's service in the present intended expedition to Nova Scotia, &c., being embarked and borne on the aforesaid sloop, you are to observe the orders and directions of Captain Charles Stucley, commander of her majesty's ship Deptford for your sailing and anchoring in your voyage out and home. Only while you remain at Nova Scotia and L'Accadie, you are to observe and follow the orders of Colonel John March commander-in-chief of the expedition; and to assist the service with your vessel and men on the water or land according to his directions, by doing all acts of hostility against the enemy; and for your return home.

Treat the officers and soldiers kindly and give them the best accommodation your vessel can afford.

Given under my hand at Boston, the twenty-ninth day of April, 1707.

J. DUDLEY.

To the Commanders of the Transports.

Province of the

Massachusetts Bay :

By his Excellency the Governor and Vice-Admiral, —

To Commander of her majesty's hired transport, &c.

You are hereby ordered to receive and take into your said vessel such provisions and stores as Andrew Belcher, Esq., commissary-general, shall cause to be put on board for the present intended expedition to Nova Scotia, &c.; and to bear upon her such company of soldiers as shall be ordered by myself; and to observe the orders and directions of Captain Charles Stucley, commander of her majesty's ship Deptford, for your sailing and anchoring in your voyage out and home; only while you remain at Nova Scotia and L'Accadie, you are to follow the orders of Colonel John March, commander-in-chief of the expedition, and to assist the service with your vessel and men on the water or land by doing all acts of hostility against the enemy according to his directions, as also for your return home before the fleet, if he see cause.

You are to take special care of the provisions and stores put on board your vessel and to issue and deliver them according to such instructions as you shall receive from Mr. Commissary-General Belcher.

Given under my hand at Boston, the twenty-third day of April, 1707.

J. DUDLEY.

COMMISSIONS.

To the Commander of the Ordnance.

Joseph Dudley, Esq., Captain-General and Governor-in-Chief, etc., —

To Colonel John Redknap, her Majesty's engineer

for the continent of America, greeting :

Whereas at the instance of the General Assembly of her majesty's Province of the Massachusetts Bay in New England, I have projected an expedition to Nova Scotia for the removal of her majesty's enemies, the French in those parts, and have raised and equipped a proper land and sea force for her majesty's service in that expedition under the conduct of Colonel John March, whom I have appointed commander-in-chief, I do by these presents authorize and appoint you to take the charge, ordering and government of the great ordnance and mortars, with the utensils and appurtenances thereto belonging, and to command, rule, govern and exercise all the gunners, matrosses and soldiers assigned to manage and employ the same on her majesty's service in the present expedition to Nova Scotia, hereby commanding them to obey you, and to observe and follow such orders and directions as from time to time shall be given by yourself.

I also desire and direct you to advise and assist at the council of war upon the place, taking the third place at the board, and to use and employ your utmost skill and diligence for her majesty's service, in making regular approaches to the enemy's forts and fortifications for the attacking of the same, and in what else is proper to the duty of your post.

And you are to observe the orders and directions of Colonel John March, commander-in-chief of the expedition.

Given under my hand and seal at arms, at Boston the sixth day of May, 1707.

J. DUDLEY.

[Endorsed:] "This commission to be of effect from the twenty-third of April past, the same date with the commissions to the field-officers."

To the Secretary of War.

Joseph Dudley, Esq., Captain-General, and Governor-in-Chief in and over her majesty's provinces, etc., —

To William Dudley, gentleman, greeting :

Reposing special trust in your loyalty, care and ability, I do by these presents constitute and appoint you to be secretary at war to her majesty's forces in the present expedition to Nova Scotia and L'Accadie.

You are therefore well and faithfully to discharge the duty to your place belonging, and carefully to enter, preserve and keep all records, letters and papers committed to your custody, and to observe the orders of the Commander-in-Chief or the President of the Court Martial for the time being, according to the trust reposed in you.

Given under my hand and seal at arms, at Boston, the third day of May, 1707, in the sixth year of her majesty's reign.

[J. DUDLEY.]

WARRANTS.

For the Master-Surgeons.

Province of the
Massachusetts Bay :

By his Excellency, —

To George Jackson, gentleman, greeting :

Being informed of your skill and ability, I do, by these presents, appoint you to be the first master chirurgion to the new-raised forces for her majesty's service on the intended expedition to Nova Scotia and L'Acadie, with two mates or assistants to attend you.

You are therefore to provide yourself accordingly, and diligently to intend and discharge the duty of your place, by carefully attending upon, looking after and administering to the sick and wounded, wherein you are to exercise the best of your skill and a good conscience; and to apply yourself to the Commander-in-Chief to order such assistance constantly to tend, nurse and watch with the sick or wounded as there shall be occasion. For which this shall be your warrant.

Given under my hand at Boston, the twenty-second day of April, 1707.

J. D.

The same to Robert Ellis, second master-chirurgion.

For the Chaplains.

[Province of the
Massachusetts Bay.

By his Excellency the Governor, —

To Daniel Epes, greeting :]

Being informed of your loyalty, ability and piety, I do, by these presents, constitute and appoint you to be one of the chaplains to her Majesty's forces in the present intended expedition to Nova Scotia and L'Acadie, whereof Colonel John March is commander-in-chief.

You are therefore well and faithfully to intend and discharge the duty of your post in praying, preaching, instructing and encouraging of the said forces in the duties of religion and of their present calling as soldiers.

[Given under my hand at Boston, this twenty-third day of April, 1707.

J. DUDLEY.

The same to Samuel Moody, Samuel Hunt, John Barnard and William Allen.]

For the Commissaries.

Province of the
Massachusetts Bay.

By his Excellency the Governor, —

To

Being informed of your ability and fidelity, I do, by these presents, appoint you to be one of the commissaries to the new-raised forces for her majesty's service in the present expedition to Nova Scotia and L'Acadie.

You are therefore well and faithfully to take charge of, preserve and secure all such provisions, clothing and stores, whatsoever, for the said expedition, which shall be committed to your care by Andrew Belcher, Esq., commissary-general, and to employ, issue and deliver the same for the service, according to such instructions as you shall receive from him, keeping true and perfect accounts of your disposal and issuing thereof, which you are to adjust, make up and render to the Commissary-General at the finishing of the expedition. For which this shall be your warrant.

Given under my hand at Boston, the [twenty-fifth] day of April, 1707.

J. DUDLEY.

For the Master Bombardier.

Massachusetts Bay.

By his Excellency the Governor, —

To Samuel Clough, master bombardier, greeting :

Being informed of your skill and ability, I do, by these presents, constitute and appoint you to be master bombardier to her majesty's forces in the present expedition to Nova Scotia and L'Acadie, whereof Colonel John March is commander-in-chief.

You are therefore carefully and skilfully to arm, prepare and make ready your bombs and other utensils necessary to be employed in the service, and with fidelity and diligence to intend the duty of your post in disciplining, ruling and ordering the bombardiers and other assistants to be assigned you for managing of the mortars and fireworks; hereby commanding them to obey you as their next immediate officer; and you are to observe and follow such orders and directions as from time to time you shall receive from Colonel Redknap, her majesty's engineer, or from other your superior officer, according to the rules and discipline of war.

Given under my hand and seal at arms, at Boston, the third day of May, 1707.

J. D.

Warrant to Nicholas Boone, one of the bombardiers, the same date.

For the Pilots.

Massachusetts Bay. ss :

By his Excellency the Governor, —

To [John] Collins, greeting :

Being informed of your skill and ability, I do, in her majesty's name, will and require you to repair on board her majesty's ship Deptford, whereof Captain Charles Stucley is commander, and to take upon you the charge of her majesty's said ship as pilot extra in the present intended expedition to Nova Scotia and L'Acadie.

You are therefore carefully and faithfully to intend and perform the duty of pilot of

her majesty's said ship, with skill and diligence for the carrying of her safe both in her going out and return in the aforesaid voyage, and safe anchoring of her from time to time. For which this shall be your warrant.

Given under my hand at Boston, the tenth day of May, 1707.

[J. DUDLEY.]

Chap. 143. This chapter is from archives, vol. 71, p. 295. It is recorded in council records, vol. VIII., p. 288.

On March 22, 1706-7, the Governor, having determined to prorogue the Legislature, sent the following communication to the Council and representatives:—

“Gentlemen,

I am glad to be advised by Mr Secretary That the Council & Representatives are so well agreed in the articles of an expedition, Eastward,

That which is wanting is an establishment or Grant of Reward for the feild officers of two Regiments which I have determined to form the forces into & without whom I cannot answer it to proceed & a grant is necessary for the ten thousand pound bills you have Voted, . . .

If these things be done this morning I am Intended to prorouge for twenty dayes when the assembly may be advised how forward we may be for the Expedition,

without these things I shall have no officers, nor money for the service. Every day we stay we Lose the season, & I must have time to form every thing, for the service which I Desire you will presently give mee that I may see what I may expect from my Neighbours as well as what I can do my self,

I therefore desire that I may rise today & have the Leisure of seeing my officers the next week.

your servant

J DUDLEY.” — *Mass.*

Archives, vol. 51, p. 158.

The order which constitutes this chapter was thereupon passed by the representatives, and sent to the Council, for concurrence, where it was immediately concurred in.

See resolves, 1707, chapter 16, and note.

Chap. 144. This chapter is from archives, vol. 71, p. 294. It is recorded in council records, vol. VIII., p. 288.

Of the communication which the Governor made to the Council and representatives, as shown in the note to the foregoing chapter, the portion omitted in that note was as follows:—

“ . . . & a present or Gratuity for Captain Stucley * & Captain Sutton the Queens officers from whom we may have a good service . . . ” — *Mass. Archives, vol. 51, p. 158.*

After passing the order which constitutes chapter 143 the representatives passed the order which forms the present chapter, and the Council concurred, as they had in the former.

Thomas Sutton was captain of the company of marines on board the Deptford. On the fifteenth of July, 1706, he published in the News-Letter an offer of reward for the return of deserters. See note to chapter 17, *ante*.

See resolves, 1707, chapter 16, and note.

Chap. 145. This chapter is from council records, vol. VIII., p. 288. It has not been found in the archives.

The following is the proclamation for this fast:—

“By His Excellency, **JOSEPH DUDLEY** Esqr. Captain General and Governour in Chief, in and over Her Majesties Provinces of the *Massachusetts-Bay*, and *New-Hampshire*, in *New-England*. A PROCLAMATION for a GENERAL FAST.

UPON due Consideration of the Holy Anger of Almighty GOD, Evidently manifested by Lengthning out the Troubles of Europe, as well as our own, and continuing them and our selves under the sore Calamities of a distressing bloody War; (notwithstanding the many great Victories obtained against the Common Enemy of Europe,) which always bespeak our Humble Prostration at the Feet of Divine Sovereignty, with Penitential Confession of our many aggravated Sins and Provocations, and fervent Supplications before the Throne of Grace, for the free Remission of them: That the Just Displeasure of GOD against us may be removed.

I Have therefore thought fit, with the Advice of Her Majesties Council, and at the concurrent desire of the Representatives in their present Session, to Appoint and Order, That Wednesday the Sixteenth of April next be set apart, and Observed for FASTING and PRAYER throughout these Provinces; Exhorting both Menesters and People in the Publick Assemblies, and in their private Devotions, religiously to Solemnize the said Day; That by a sincere Repentance and steady Affiance in the Divine Mercy in their most humble Addresses to GOD, They may obtain these great Blessings

That our Sovereign Lady the QUEEN, with Her Kingdoms and Dominions may always be under the Protection of Heaven; Her Majesties Life and happy Government long con-

* The Editor is indebted to Mr. Walter K. Watkins for the following account of this once prominent but now obscure person, who was the fourth son of Lewis Stucley, “a clerk in holy orders,” by Elizabeth Alsopp of Plymouth, England; both parents being buried at St. Budeaux. He was baptized March 8, 1676-7, at St. Andrew's, Plymouth, married August 20, 1709, at Kingswear, to Anne, daughter of John Fownes of Whitley, member of parliament for Dartmouth. By this union there was one child, a daughter, Anne, who was married January 3, 1730-31, at Kingswear, to Francis Luttrell of Venn, Somerset, England. — Vivian's Visitation of Devon, part XIX., p. 721, 722. He died in England April 3, and was buried at St. Budeaux April 6, 1720. According to the *Biographia Navalis* (London, 1795) he was appointed commander of the *Lowestoft*, frigate, July 1, 1703; “and,” the sketch continues, “we have no account of his being appointed to any other ship.”

tinued; Her Councils and Just Arms prospered: That the Government of these Her Majesties Provinces may be always under the Influence of Divine Direction in all their Administrations & Just Enterprizes, and the Smiles of Heaven attend them: The Designs of Enemies defeated: The Residue of our Captives be returned: That Health may be continued, and the Ensuing Year Crowned with the fruits of Divine Benignity: That the present Wars and Tumults of the Nations may happily Issue in the Advancement of the Protestant Religion, and the Glorious Kingdom of our Lord and Saviour JESUS CHRIST. And all Servile Labour is forbidden on the said day.

Given at the Council Chamber in Boston the Twenty Second of March, 1706, 7. In the Sixth Year of the Reign of our Sovereign Lady Anne, by the Grace of God of England, Scotland, France and Ireland, QUEEN, Defender of the Faith, &c.

By Order of His Excellency and Council.

J. DUDLEY.

Isaac Addington, Secr.

GOD Save the QUEEN." — *Boston News-Letter*, No. 154.

The Governor at the opening of the fifth session (April 15, 1707) intimated that the "solemnity of the public fast on the morrow" * required an adjournment until Thursday, consequently no legislative business was done until the seventeenth.

Rev. Samuel Torrey of Weymouth, who had long been regarded by those in authority in the state as well as the church as their mentor, preached a sermon on this occasion. It was his last public service. He died on the following Monday (the twenty-first of April), widely lamented.†

The above proclamation was dated and published in New Hampshire, under the seal of that province, the seventh of April. It is printed in full in the Provincial Papers of New Hampshire, vol. III., pp. 339, 340.

Chap. 146. This chapter is from council records, vol. VIII., p. 288. It is preserved in archives, vol. 101, p. 332.

Two estimates of the expenses incident to the expedition to Port Royal this year were made by Commissary-General Belcher. The former of these, for one thousand men for fifty-six days, amounted to £6165 18s. 16d.‡ This, however, was exclusive of the cost of ammunition. The second estimate, which bears date three days after the passage of this chapter, was as follows:—

"Boston March 25th 1707

A Computation of the Charge of Provisions, Transports, Wages, Utensils of War &c. for 1100, men, in an Expedition to Port-Royal for 70, daies.

Provisions	• • • • •	•	•	2420	• • •	• • •
Charges fitting Transports	• • • • •	•	•	320	• • •	• • •
Wine, Sugar, Spice &c.	• • • • •	•	•	100	• • •	• • •
200, Spades, & Shovels, 100 axes	• • • • •	•	•	•	• • •	• • •
100, Pick axes, may cost.	• • • • •	•	•	80	• • •	• • •
40 Whaleboats, with Materials	• • • • •	•	•	360	• • •	• • •
Hire of Transports	• • • • •	•	•	1280	• • •	• • •
Wages according to Establishment	• • • • •	•	•	3750	• • •	• • •
Advance of Wages $\frac{1}{2}$, to Encourage the Attacking the fort	• • • • •	•	•	1250	• • •	• • •
Given by the Generall Assembly in case the fort be taken	• • • • •	•	•	1000	• • •	• • •
Bullets & flints	• • • • •	•	•	100	• • •	• • •
Necessaries, for Doctrs & their wages	• • • • •	•	•	100	• • •	• • •
				£ 10760	• • •	• • •

100 Barrels Gunpowder " £ 10760

— *Mass. Archives*, vol. 71, p. 307.

The committee for making and signing the bills of this issue, having for nearly eight months neglected to perform that duty, the House passed the following order:—

"In the House of Representatives, Nov^r 18: 1707.

Whereas Complaint is made That the Six Thousand Pounds of Bills of Credit on this Province which were Ordered, to be made in March last, are not yet sign'd, & brought into the Treasury, & the Debts of the Province remain unpaid, to the great Detriment, of many, to whom they are due, for want of the sd Bills.

Ordered That Col: Samuel Checkley, Capt^y Ephraim Savage, & Capt: Samuel Phipps, be added to the Committee, appointed by this Court, to make, & Signe the sd Bills, & also for the making & signing of all Such Bills, as shall hereafter be ordered, by this Court to be made, & any three of them, Signing Such Bills, They shall Passe, & be accepted, in all Payments, as the Bills already made.

And if the former Committee still Refuse, or neglect to Perform, the sd Service, then the Three Persons Above mentioned, shall be a Committee, to make, Signe & Deliver, to the Treasurer, Such Bills, as are, or shall be ordered to be made by this Court, & shall be paid

* "Wednesday the 16th Instant is to be a Day of Solemn Fasting and Prayer throughout this Province and New-Hampshire, for the Causes specified in his Excellency's Proclamation." — *Boston News-Letter*, No. 156. April 7 to 14, 1707.

† "Weymouth, April 24 Yesterday was Interr'd here the Reverend Mr. Samuel Torrey, Fellow of Harvard College, & Pastor of the Church in this Town, who Dyed on Monday last, having Preach'd on the Publick Fast the Wednesday before; was entering on the 70th Year of his Age, and in the Fifty first year of his Ministry; leaving behind him the Character of a very Laborious, Faithful, Learned and Pious Minister of the Gospel." — *Ibid.*, No. 158.

‡ "Monday, Apr. 21. [1707] . . . It seems the Soldiers go to Hull this day from Weymouth, there to imbark in the Port-Royal Expedition; Mr. Fisk pray'd with them. The Death of Mr. Torrey, a Laborious, Faithfull Divine, Excellent in Prayer, is a sad epocha for the Commencement of this Expedition . . ." — *Severall's Diary*, vol. II., p. 186.

† *Mass. Archives*, vol. 71, p. 278.

for their Service, eight shillings for each Hundred Pounds, they make, Provided that the Bills be of like sums proportionably, with those last made.

Sent up for Concurrence. JOHN BURRILL Speakr." — *Ibid.*, vol. 101, p. 342.

On the same day the above order was read in Council, whereupon the following proceeding ensued:—

"James Russell Esq^r, one of the Committee Informed That they were preparing the Bills, which would soon be ready to deliver to the Treasurer. And he was sent to the House to Acquaint them thereof." — *Ibid.*

The order for a warrant on the province treasurer to discharge the account of expenses for paper, printing, and for the services of the committee for signing these bills included also similar charges for the next issue of bills under chapter 15 of the resolves of 1707. It was as follows:—

"Feb. 20, 1707-8. An Accompt presented by James Russell Esq^r of the Committee for Bills, for charge of paper, printing and signing of two several parcels of Bills of Credit, for six Thousand pounds each, ordered by the General Assembly at their two several Sessions, vizt in March 1706, and in May 1707, amounting in the whole to one hundred forty five pounds, sixteen shillings and two pence, allow'd — And.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the aforesd sum of one hundred forty five pounds, sixteen shill^s and two pence to the s^d Mr Russell for himselfe and the rest of the Committee & for the charges." — *Executive Records of the Council*, vol. 4, p. 548.

The following is the entry of payment of the accounts above named, and of a similar account of expenses under resolve, 1707, chapter 81:—

"Paid James Russel & Elisha Hutchinson Esq^rs of y^e Committee for Bills in full of their Acco^t for new graveing one of y^e Plates charge of paper Imprinting Signing & Numbring of two Sev^ll sums of Six thousand Pounds each & one sum of Ten thousand Pounds in Bills of Credit ordered by y^e General Assembly at three sessions. Vizt in March 1706 in May 1707 & in Octobr 1707 273 ¹¹/₁₆ 5."
— *Mass. Archives*, vol. 123, p. 27.

Chap. 147. This chapter is from archives, vol. 40, p. 892. It is recorded in council records, vol. VIII., p. 290.

The order by which the case between Keene and Shepard was "referred," as stated in the preamble to this chapter, was chapter 8, *ante*. That order having required the petitioner to cause the other party to be served with a copy thereof and of the petition upon which it was based, and also that execution be stayed, Keene delivered the required copies, attested by Secretary Addington, to Joseph Curtis, sheriff of the county of York, who duly served the same, whereof he made return as follows:—

"York. ss/
This Adjoyning Petition & ord^r being Delivered me by m^r Nathaniel Keen — y^e Petitioner, for my Drawing A Coppie of the said Petition & ord^r, and Serving, the within Named John Shepard, with y^e Same, which I have Obeyed & Serve^d the s^d Petition & ord^r Accordingly — and as for the Execution it was Levied before y^e Receiveing of this Petition & c^a. —
June y^e 15th 1706 — P Jos: CURTIS Sheriff." — *Suffolk Court Files*.

The "next sitting" of the Superior Court in Boston was the November term, at which, apparently, Keene duly made his appearance, but found that the sheriff's return of the order of notice to Shepard had not been received by the clerk.

It further appears by the deposition of one Richard Eaton that, on the evening of the second day of the term, Keene served upon Shepard, by reading, and afterwards delivering to him, what purported to be a summons, and that thereupon both parties proceeded to the court-house.

The failure to make return was owing to the death* of the sheriff, which occurred after service of the notice and before the sitting of the Court; but his son, upon being informed that the papers had not reached the clerk of the Court, prepared the following affidavit, which he gave into Keene's hands to be conveyed to Cooke:—

"To the Hon^{ble} her Maj^{ties} Justices of y^e Superior Court of Judicature & a Now Sitting at Boston. —

I understand by m^r Nathl Keen y^t Yor Hon^{rs} have Not Received y^e Petition & ord^r, Relating to a Case Between The above s^d Keen and John Shepard —

These are to Certifie Yor Hon^{rs} that my Father told me That he had Served said Shepard with y^e Coppie of y^e s^d Petisioⁿ & ord^r, and my Father ordered me to make y^e Return which I did, as also y^e Execution against m^r Keen which Petition with Execution I Seal^d vp in a Letter Direct^t To m^r Cooke Clerk of said Court, about two Months ago, Delivering y^e s^d Letter to a Mesingar and gave him a Charge about it, and that he Should give it to y^e Post, which he told me one his Return when I aske him about y^e Letter Said he Delivered y^e Same to m^r Plummer y^e Post — Therefore Pray yor Hon^{rs} not to think I am Careless in y^e Primises, But that I did what I Could in y^t Matter and Remaine

Yor Hon^{rs} Most Humble Serv

Jos: CURTIS —

York ss:/ Kittery Novemb^r 14th 1706

* Administration was granted on the estate of Joseph Curtis of Kittery, January 13, 1706-7. — York County Probate Records.

† Manuscript mutilated.

Mr Joseph Curtes personally Appearing made oath to y^e truth of the above written
Before me Jos: HAMOND. J: Peace

On her Majties Service
To Mr Elisha Cooke Junr
Clerk of y^e Superior Courts —

Att
P^r Mr Nath^l Keene Boston." — *Ibid.*

The action of the judges was not thereby delayed beyond the third session of the Assembly, for on the third of December they submitted the following report, which was then read in the Council, and again on the seventh, when it was sent to the representatives and the vote of acceptance thereof concurred in: —

"In answer to the Petition of Nath^l Keene

The Committee appointed to Inquire into the Proceedings had in the Case mentioned in the s^d Petition do report as followeth, Viz^t

That they are of Opinion, That the s^d Petitioner May be allowed to have a Tryall in the Case mentioned at the Superior Court next to be holden for the County of Yorkshire upon his Appeal, if this Hon^{ble} Court see Cause —

SAMUEL SEWALL,

P^r order of the Committee." — *Mass.*

Archives, vol. 40, p. 862.

The next regular term was to be held in May, 1707, yet the third and fourth sessions of the Legislature were suffered to pass without further legislative proceedings respecting this case. Finally, on the third day of the fifth session, the order which constitutes this chapter was passed in the Council and sent to the House, for concurrence, where it was immediately concurred in, and signed by the Governor.

The order required that the appellant be served with a copy fourteen days before the sitting of the Court. That this was done appears by the following return, dated April 21, 1707, endorsed upon an attested copy of the order which constitutes this chapter: —

"I have sarfe this order and left A copy at the house of John Sheppard Jun^r according to law

JOHN DENNET

Constaboll of Ketterry." — *Suff-*

folk Court Files.

Why the business was not pushed so as to have the case tried at the May term in 1707, has not been ascertained. Possibly the progress of the officer's return to the clerk's office was retarded by accident or neglect.

At last, at the term of the Superior Court held at Boston,* on the first Tuesday of November, 1707, Shepard was "thrice solemnly called," and not responding, was defaulted and thereupon judgment was entered up as follows: —

"Upon Reading the Petition of Nath^l Keene of Kittery in the County of York yeoman, shewing that at an Inferiour Court of Common pleas held at York 2^d April 1706 he Recovered Judgment against John Sheppard for Ten Acres of Land in Kittery & Costs & Sheppard Appealed & entered into Recognizance to prosecute &c And the s^d Sheppard having failed to prosecute the Same Wherefore Prays that the Judgment of the Inferiour Court may be affirmed According to Law.

Its Considered by the Court that the former Judgm^t be affirmed with Costs of Courts taxed at Eighteene pounds Ten shillings & a penny." — *Records of the Superior Court of Judicature, 1700-1714, fol. 216.*

On the tenth of November a writ of *habere facias possessionem* was issued on the judgment, by virtue of which, on the twenty-eighth, Charles Frost, the successor of Sheriff Curtis, reinstated Keene in the possession of the estate of which he had been so long deformed by color of law, "and levied the costs," amounting to £18 10s. 1d., "in public bills of credit," according to Keene's direction, but which the latter refusing to accept remained in the sheriff's custody subject to the demand of the judgment creditor.

Chap. 148. This chapter is from council records, vol. VIII., p. 290, and archives, vol. 17, p. 178.

The following is Mrs. Wade's petition: —

"To his Exc^y Joseph Dudley Esqr Govern^r, y^e Hon^{ble} Council and the Representatives of Her Maj^{ties} Province of the Massachusetts Bay in New-England in General Court Convened y^e 15th of April 1707. —

The Petition of Elizabeth Wade Relict Widow & Admin^{rx} of the Estate of John Wade late of Barwick within y^e Township of Kitterry *Cl^{er}. decess.*

Humbly Sheweth,

That your Pet^r said husband John Wade having Invested what money he Acquired in the few years of his continuing in the ministry at Barwick, in the purchase of a small Lot of Land containing ab^t Three Acres and in Building of a Dwelling house thereon for the Accommodation of him selfe & Family; which with some few household Goods, was what Estate he dyed Seized of; leaving your Pet^r with the care & Charge of Two young Children. And the s^d house in that Place being incapable of Improvem^t to yeild any Income for the Support of yor Pet^r and her Two small Babes; There being now an Opportunity to make Sale of y^e same, which if slipt, another possible may not Offer & the House will fall into despair

Yor Petitioner therefore humbly pray's, That this hon^{ble} Court will please to Impower her to make Sale of the s^d House & Land for the necessary Subsistance of her selfe &

* By Province Laws, 1703-4, chapter 9, § 1, appeals from York County to the Superior Court were to be made to the next term to be held in Suffolk County.

Children, and for their Education, & to make and Execute a good & Sufficient Deed in the Law to Convey & Assure y^e Same. —

And yor Pet^r as in Duty bound shall ever pray &c —

Signd by her order

ELIZABETH WADE —
RICHARD GERRISH. — *Mass.*

Archives, vol. 17, p. 178.

This petition was read in the Council April 17, 1707, and the order thereon was passed and sent to the House for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

Apparently in pursuance of the authority given in this chapter Mrs. Wade, June 13, 1707, by an indenture * between herself and Jeremiah Wise of Berwick, clerk, conveyed to the latter "for and in consideration of the Sum of one hundred and forty pounds well and truly Secured to be paid before the ensealing & delivery of these presents by the s^d Jeremiah Wise . . . ascertain tract or parcel of land containing four Acres be it more or less with the dwelling house Standing thereupon Scituate lying and being in the s^d Town of Barwick near to the Meeting house, bounded on the Southeast by the way going to the great Works Northeast by Mr John Hills formerly Mr John Plaisteds land comonly called Parkers field Northwest by the burying place in the land of Humphrey Spencer, Southwest by y^e land of Humphrey Spencer or the comon road which leads to Quamhegan Together with all other houses Edifices buildings barnes Stables orchards Gardens Yards backside easments lands Meadows feedings pastures woods underwoods ways passages profits comodities Advantages hereditaments and Appurtenances whatsoever to the s^d tract of land or premises be it four Acres more or less belonging or in any wise Appertaining And also all the Estate Right title Interest possession property Claime and Demand whatsoever of her y^e s^d Elizabeth Wade of in or to the Same And all Deeds writings Court Roll and Escripts whatsoever touching and concerning only y^e premises or any part thereof," to hold the same in fee, with a covenant of warranty, "The Lord propriert^r of the Fee or fees only Excepted."

The deed was witnessed by Humphrey Spencer, Thomas Goodwin and John Croade, and was acknowledged before Ichabod Plaisted.

See resolves, 1704-5, chapter 105, and note.

Chap. 149. This chapter is from archives, vol. 31, p. 42. It is recorded in council records, vol. VIII., p. 291.

In the note to chapter 4, *ante*, some account is given of incursions by the Indian enemy to June 6, 1706, under the permission granted by Vaudreuil. These were followed by others in rapid succession during the summer. About the middle of June Dudley received advices through Colonel Schuyler at Albany of the departure of another hostile expedition from Canada in considerable force, and by the twenty-eighth he "had marched several Troops and Foot Companies to the Frontiers" † to repel these invaders.

This body of the enemy made their first demonstration on the third of July, ‡ at Dunstable, where Captain Peirson of Rowley was stationed in command of twenty troopers to reinforce the garrison, and it was among this garrison and troop that the scalp-money granted in this chapter was divided. The News-Letter of the eighth of July gives the following extended account of Dudley's preparations, the attack of the enemy, the surprise of the garrison, and their repulse, and of the pursuit of the Indians, after severe losses on both sides: —

"*Boston*, His Excellency the Governour having been for Ten days past in Expectation of a Troop of the Indians from *Quebeck*, had Posted men in the several Frontiers of *Hampshire, Middlesex and Yorkshire*, to receive them: § and a Wednesday Evening they Entered *Dunstable* a poor weak Village, where lay a Troop of Horse; and the Rebels chanced upon a Garrison where half of the said Troop was, who though they were surprized soon relieved themselves, and the whole Village, which in probability had been all lost, if the Indians had not found a Force there more than they expected. The Enemy consisted of 100, and by their March confess to have lost Seven, besides wounded men, and we lost nine Men Women and Children." — *No. 116.*

The following note by the editors of the Winthrop Papers contains an extract from a letter which Dudley despatched to Colonel Partridge communicating the tidings of this assault, and animadverting upon the want of vigilance displayed by the garrison: —

"A few days later [than July 4, 1706,] came another of Colonel Partridge's appeals for

* York Deeds, book VII., fol. 81.

† Boston News-Letter, No. 115.

The accounts of the province treasurer contain two items of payment for services performed, apparently, on this occasion and ending the twentieth of July. — one to the troop under Colonel William Fuller from the twenty-seventh of June, and the other to the company under Lieutenant Samuel King from the twenty-eighth of June. — *Mass. Archives*, vol. 122, pp. 272 and 273, and vol. 123, p. 11; see also Executive Records of the Council, vol. 4, pp. 362 and 363. Lieutenant John Ashcroft's Moheng Indians also received wages for service between the seventeenth of June and the thirtieth of July. — See Executive Records of the Council, vol. 4, p. 329, and *Mass. Archives*, vol. 122, p. 277.

‡ "The same Day sergent Kingsbury of Haverhill, was killd or taken by the Indians." — *Pike's Journal*, in *Proc. Mass. Hist. Soc.*, 1875-76, p. 142.

§ The date of this "posting" of men at the frontiers would seem to be the first of July, since warrants were issued to the province treasurer for paying two companies of foot soldiers (Captains Samuel Frothingham and Josiah Converse) and one company of troopers (Captain Henry Sommerby), besides Peirson's, for services beginning that day. — See Executive Records of the Council, vol. 4, pp. 331, 350 and 351, and *Mass. Archives*, vol. 122, pp. 272, 273, 274, 277 and 287, and vol. 123, p. 11. Another troop (Captain Peter Tufts) and a company of dragoons (Captain William Reed) were detailed on the fourth of July, and a company of foot (Captain Josiah Parker) was in service from the twelfth of July to the first of August. — See Executive Records of the Council, vol. 4, pp. 351, 362 and 377, and *Mass. Archives*, vol. 122, pp. 273 and 278, and vol. 123, p. 11.

help, enclosing a copy of a letter from Dudley to him, in which the Governor notifies him that a party of Quebec Indians had attacked Dunstable, and had with difficulty been beaten off. He adds: "We lost nine people & they had seven killed. By the carelessness of the officers we were surprised, otherwise might have killed half their number. The Lord deliver us from sleep and cowardice!" — *Part V., p. 339.*

The following account, taken from the printed diary of Rev. John Pike,* bears the appearance of greater exactness, and seems to explain why compensation was claimed for one scalp only:—

"July 3, 1706. Capt Person of Rowley marching with his troop to Dunstable, & being posted with part of his troop at one Blanchers house, while they were at supper in the Chamber, the enemy had slightly turned Blanchers sheep into his Corn, which he & his wife going out to Reduce, were both slain, the Doors & Gates being open, the enemy entered the house, killed Persons Trumpeter, with 3 other troopers, and wounded five more, at last they were driven out of y^e house with the Loss of one Indian. Person was much blamed for not setting his sentinels out.—Near abo^t the same time, or soon after, they assailed another house belonging to one Jacob Guletia a Dutchman. The house was burnt, some persons were kill^d, and some escaped. The whole number said to be slain in Dunstable at this time was nine persons." — *In Proc. Mass. Hist. Soc., 1875-76, p. 142.*

Penhallow's account of the doings of the enemy at this time includes a description not only of this affair at Dunstable but of other subsequent assaults made in the neighborhood. The following extracts are inserted as pertinent to this chapter:—

"The advice of Colonel Schuyler from time to time was of eminent service unto the country, who advised of two hundred and seventy† men that were coming upon us. Their first descent was on Dunstable,‡ the third of July, where they fell on a garrison that had twenty troopers posted in it, who by their negligence and folly, keeping no watch, suffered them to enter, which tended to the destruction of one half of their number. After that a small party attacked Daniel Galushas' § house, who held them play for some time, till the old man's courage failed; when on surrendering himself, he informed them of the

* In the following entry in the diary of Rev. Joseph Green of Salem Village the name of a man who seems to have belonged to Salem is given as killed at one of the garrisons:—

"July 3 [1706]. . . The Indians at night stormed a garrison at Dunstable, and killed four men. Holyoke Putnam was one." — *Essex Institute Hist. Coll., vol. X., p. 74.*

† It will have been observed that the above extract from the News-Letter gives the number as one hundred.

‡ . . . Dunstable was a frontier town. Garrison houses were established in various parts of it, two of which (Wells's and Galusha's) were afterwards celebrated for the result of an attack upon both the same day, made by a party of the savages. Scouts of horse from the lower towns were constantly kept out scouring the woods upon the frontiers. One day, a company of these who had been ranging the woods in the vicinity without making any discovery, towards night, came to Wells' garrison, and apprehending no danger, turned their horses loose upon the interval, piled their arms and harness in the house, and began a carousal, to exhilarate their spirits after the fatigues of the day. A party of Indians had lately arrived in the vicinity, and on that day had designed to attack both Wells' and Galusha's garrisons. One of their number had been stationed to watch each of these houses, to see that no assistance approached, and no alarm was given. A short time previous to the approach of the cavalry, the Indian stationed at Wells' had retired to his party, and reported that all was safe. At sunset, a Mr. Cummings and his wife went out to milk their cows, and left the gate open. The Indians, who had advanced undiscovered, started up, shot Mrs. Cummings dead upon the spot, and wounded her husband. They then rushed through the open gate into the house, with all the horrid yells of conquering savages, but stared with amazement on finding the room filled with soldiers merrily feasting. Both parties were completely amazed, and neither acted with much propriety. The soldiers, so suddenly interrupted in their jovial entertainment, found themselves called to fight, when entirely destitute of arms, and incapable of obtaining them. The greater part were panic-struck, and unable to fight or fly. Fortunately, all were not in this sad condition: some six or seven courageous souls, with chairs, clubs, and whatever they could seize upon, furiously attacked the advancing foe. The Indians, who were as much surprised as the soldiers, had but little more courage than they, and immediately took to their heels for safety; thus yielding the house, defeated by one quarter their number of unarmed men. The trumpeteer, who was in the upper part of the house at the commencement of the attack, seized his trumpet and began sounding an alarm, when he was shot dead by an Indian on the stair-way. He was the only one of the party killed.

The savages, disappointed in this part of their plan, immediately proceeded to Galusha's, two miles distant; took possession of, and burnt it. One woman only escaped. Had the company at Wells', armed and immediately pursued, they might probably have prevented this disaster; but they spent so much time in arming and getting their horses, that the enemy had an opportunity to perpetrate the mischief and escape uninjured.

The woman above mentioned, when the Indians attacked the house, sought refuge in the cellar, and concealed herself under a dry cask. After hastily plundering the house, and murdering as they supposed all who were in it, the Indians set it on fire and immediately retired. The woman in this critical situation, attempted to escape by the window, but found it too small; she however succeeded in loosening the stones till she had opened a hole sufficient to admit of her passage, and with the house in flames over her head, she forced herself out, and crawled into the bushes, not daring to rise for fear she should be discovered. In the bushes she lay concealed until the next day, when she reached one of the neighboring garrisons.

Cummings, at Wells' garrison, had his arm broken, but was so fortunate as to reach the woods while the Indians were engaged in the house. That night he lay in a swamp in the northerly part of what at present constitutes the town of Tyngsborough, about one quarter of a mile west of the great road as it now runs, and a few rods south of the State line. The next day he arrived at the garrison near the residence of the late Col. Tyng." — *Farmer and Moore's Collections, vol. II., p. 303.*

§ The editors of Penhallow state that the name was written "Galencia's" in the copy. The son, who was a garrison soldier there, had forty shillings of his wages stopped on account of his retaining a gun belonging to the province, which by mistake he had exchanged for his own that was burned in his father's house. In 1712 he was allowed the forty shillings, and twenty shillings more for the lost gun, upon his returning the "public gun" to Colonel Tyng. See the order of August 22, 1712, in the resolves of 1712-13.

state of the garrison, how that one man was killed and only two men and a boy left, which caused them to rally anew, and with greater courage than before. Upon which one with the boy got out on the back side, leaving only Jacob to fight the battle, who for sometime defended himself with much bravery; but overpowered with force, and finding none to assist him, was obliged to quit it and make his escape as well as he could; but before he got far, the enemy laid hold of him once and again, and yet by much struggling he rescued himself. Upon this they burnt the house; * and next day, about forty more fell on Amesbury; † where they killed eight; two, at the same time, who were at work in a field, hearing an outcry hastened to their relief; but being pursued, ran to a deserted house in which were two flankers, where each of them found an old gun, but neither of them fit for service; and if they were, had neither powder nor shot to load with: however, each took a flanker, and made the best appearance they could, by thrusting the muzzles of their guns outside the port-holes, crying aloud, 'here they are, but do not fire till they come nearer;' which put the enemy into such a fright that they instantly drew off.

From thence they went to Kingston, ‡ where they killed and wounded several cattle. . . . On the 8th of July, five Indians, a little before night, fell on an out-house in Reading, § where they surprized a woman with eight children; the former with the three youngest were instantly dispatched, and the other they carried captive; but one of the children unable to travel, they knocked on the head, and left in the swamp concluding it was dead, but a while after it was found alive. The neighbourhood being alarmed, got ready by the morning and coming on their track, pursued them so near that they recovered three of the children, and put the enemy in such a terror that they not only quitted their plunder and blankets, but the other captive also." — *Penhallow's Indian Wars*, pp. 43-46.

A band or bands of hostile savages, apparently those who perpetrated the outrages above described, infested for several days the region extending from Chelmsford to Exeter, New Hampshire. It was on the twenty-seventh || that the "friend Indian" Joseph English was murdered near Dunstable, as narrated in the note to chapter 61, *ante*. The

* "Wells' garrison was in the southerly part of Dunstable, N. H. about half a mile from the State line, near James Baldwin's house, on a place known by the name of the Blanchard farm, east of the great road to Boston. Galusha's, was about two miles south-west of this, on Salmon brook, at a place formerly called Glasgow ['Glasgow,' according to the records of Penhallow], on which Henry Turrell now lives." — *Farmer and Moore's Collections*, vol. II., p. 303, *foot-note*.

† This attack on Amesbury, not mentioned in Merrill's history of the town, is thus noted in Pike's Journal:—

"July 4, 1706. A party of the enemy fell upon the out parts of Amsbury about High-noon. Killed & carried away 9 or 10 persons—whereof the chief were Nath: Weeds wife & Children, Robert Hoyts wife, John Ash & some others slain, Barns Prowt Carried away." — *P. 142*.

It is also twice referred to in the contemporaneous tract entitled "The Deplorable State of New England" (Mass. Hist. Soc. Coll., fifth series, vol. VI., pp. 44* and 54*). The first mention is as follows:—

"the Indians came sharply down upon us about the latter end of June last, Killed Six People, Wounded two, and carried away two from the Town of *Amsbury*, and a little before they Killed . . . one Man . . . with Swan-shot out of the Township of *Hampton*; and Nine Killed, one Wounded, and one carried out of the Township of *Exeter*."

Mr. Joseph Merrill, the historian of Amesbury, has communicated to the Editor the following:—

"A letter . . . from Capt. John Wadleigh to Capt. True . . . says, 'About one of the clock the Indians killed Natt Weeds wife and three children one of them dead, the other two mortally wounded'

"At the same time Robt Hoyts wife killed a child missing and a boy of Thomas Hoyts killed All at one time as near we can judge. Pray send a party of men I think it a good way to go out this night We think to be 30 Indians."

† "Last Week one of the Skulking Indian Enemy was kill'd at *Groton*, and another at *Kings-ton*." — *Boston News-Letter*, No. 117. July 8 to 15, 1706.

§ Pike's Journal contains the following entry:—

"July 6, 1706. A woman with 2 or 3 child* was slain at an ont house belonging to Reading." — *P. 143*.

The News-Letter's report was as follows:—

"*Reading*, July 10. On Saturday the 6th Currant about 4 a Clock in the afternoon there came 5 Indians to *Benjamin Hornudal's* House of this Town. being an Out-house, where they found his Wife and eight Children, the Woman and three young Children they killed, and carried the other five with them; One of the Captive Children not being able to Travel, an Indian gave it some blows on the head, and left it in a Swamp not far from the House for dead, where it lay almost two days, & then was found alive stark naked.

Upon notice had of this mischief on the 7th instant being the Lords Day; several Parties of our Forces went in pursuit of the skulking Enemy, and as some of the Indians sat in a Swamp with three of the Captives, a Company of Soldiers coming very near them, the Enemy started up, ran, and left their Captives, Plunder and Blankets, &c. And when the Indians were gone, the Children went to a deserted House that was near, where the English found them.

The other Captive was discovered by some men at a Block-House in *Chelmsford*, as he was wandering in a Meadow alone, the Indian that carry'd him away had (it's most probable) lost him in the night, some Soldiers discovered one of these Indians, shot at & wounded him, the Indian fell, but as they were going to him, he arose, cast away his Blanket & Pack, ran to *Concord*-River that was near, and was seen sink in the River, and suppose he was drowned." — *No. 117*.

|| "July 27, 1706. Lt Butterfield & his wife Riding between Dunstable & some other Town, had y^e horse shot-down by the enemy. The man escaped, the woman was taken, — and Jo: English a friend Indian in company with y^m, was at the same time slain." — *Pike's Journal*, p. 143.

Penhallow's account of the death of English is given in connection with the attack on Kingston, New Hampshire, which occurred on the fourth. He says, —

"About the same time, Joseph English, who was a friend Indian, going from Dunstable to Chelmsford, with a man and his wife on horse-back, was shot dead, the woman taken, but the man made his escape." — *Indian Wars*, p. 45.

blood-thirsty marauders appear to have moved west, where they made demonstrations at Springfield,* Brookfield and Hatfield.†

The order in Council‡ for the payment of the allowance granted by this chapter was passed September 24, 1707, and the province treasurer's account§ shows that it was paid.

Chap. 150. This chapter is from archives, vol. 63, p. 80. It is recorded in council records, vol. VIII., p. 291.

The Success Galley, Captain Ebenezer Wentworth, was recorded as having cleared for Virginia in the list of outward-bound vessels published in the News-Letter|| of February 24, 1706-7. But she returned in season to be employed in the expedition against Nova Scotia. Her impressment and service are shown by the roster in the note to chapter 142, ante. Francis Lond was employed to pilot her on the expedition.¶

The following is the vote of advice and consent of the Council for a warrant to pay Captain Wentworth for the hire of his ship and for the wages of his men:—

"Nov. 20, 1707. A Muster Roll of the Ship Success Galley, Captⁿ Ebenezer Wentworth Commander, employed in Her Majesty's service on the late expedition to Nova Scotia &c. containing an Account of hire and the Company's Wages for their service from the 7th of April to the 9th of September 1707, amounting to seven hundred thirty three pounds, seventeen shillings and seven pence, whereof twenty five pounds one shilling and eight pence being subducted for Commissary; rests seven hundred and eight pounds fifteen shillings and eleven pence; having been laid before the Board; and Examined by M^r Commissary General, was presented—And.

Advised and Consented. That a Warrant be made out thereupon to the Treasurer to pay the above sum of seven hundred and eight pounds fifteen shillings and eleven pence. The Wages to be paid to the s^d Captⁿ Wentworth and Company accordingly. The hire to the Captain on behalfe of his Owners."—*Executive Records of the Council*, vol. 4, p. 483.

In the treasurer's account there are two entries** of payment covering nominally these items, but amounting only to £697 12s. 10d.

Nothing has been discovered to reconcile the discrepancy between the amount thus allowed and the amount paid.

1707.

Chap. 1. This chapter is from council records, vol. VIII., p. 295. It has not been found in the archives.

The following is the vote for inviting Belcher to preach this sermon:—

"Jan. 14, 1706-7. His Excellency proposed, that Mr Samuel Belcher †† Minister in Newbury be desired to preach a Sermon to the General Assembly at their convening, upon the last Wednesday of May next, being the Anniversary day of their electing Conncelloours.

The Council approved thereof; and that the Secretary be directed to Intimate the same to him in a Letter, & desire him to prepare accordingly."—*Executive Records of the Council*, vol. 4, p. 368.

The sermon was printed in 1707, at Boston, by "B. Green," under the following title:—

"An ESSAY | Tending to Promote the | Kingdom | Of Our Lord | Jesus Christ, | As it was Delivered in a Sermon | Preached before His Excellency the | GOVERNOUR, the Honourable | COUNCIL, and Representatives | of the Province of the Massachusetts- | Bay in N. England, On May 28. 1707. | Which was the Anniversary Day for | Election of Her Majesties Council, | for that Province. | By Samuel Belcher | Pastor of a Church in Newbury. | Matt. 6 33 But Seek ye first the Kingdom of God, | and his Righteousness: . . . | [Text.] Matthew VI. 10. | Thy Kingdome Come."—*From a copy in the library of the Mass. Historical Society.*

* "In 1706, Samuel Chapin of Springfield was wounded, July 31."—*Judd's History of Hadley*, p. 276.

† "Mr. Samuel Chapin had been at his daily labor on land which he owned on the west side of Conn. river and had just entered a boat on his return home at night, when he was fired upon by some Indians (and wounded though not dangerously) lying in ambush among the willows which grew near the water."—*Chapin Genealogy*, p. 7.

‡ The following entries leave uncertain the place of the murder of Judah Trumbull; but since, in the contemporary letters of Partridge, Governor Winthrop and the council of Hartford, the only places mentioned are Hatfield and Brookfield, and in that order, the presumption is that he was one of the garrison of the former town, and this is strengthened by the fact that the town records of Hatfield contain an entry that in July Judah Trumbull and widow Tosh were "slain by the Indians:"—

"widow Mary Tosh, or Mackintosh, was killed at Brookfield; and Judah Trumbull of Suffield was slain in July. A company from Connecticut was in garrison three months or more."—*Judd's History of Hadley*, p. 276.

"Only one casualty is known to have occurred in this town, 'Mary McIntosh, widow of Daniel, was fired upon and killed as she was milking her cows.' This happened Aug. 2, Judah Trumble was killed at or near the same date; and the entry in the *Co. Recorder's Book*, seems to imply that they were shot at the same time and place. He belonged to Suffield."—*Temple's History of North Brookfield*, p. 171.

† *Executive Records of the Council*, vol. 4, p. 467.

§ *Mass. Archives*, vol. 123, p. 30.

|| No. 149.

¶ *Mass. Archives*, vol. 71, p. 304.

** *Ibid.*, vol. 122, p. 298, and vol. 123, p. 18.

†† "Tuesday, Jan^y 14th [1706-7.] Gov^r calls a Council, Propounds Mr. Danforth, Dorchester, and Mr. Belcher of Newbury to Preach the Election Sermon; Mr. Samuel Belcher is agreed on, Mr. Danforth having preach'd before."—*Sewall's Diary*, vol. II., p. 178.

Sewall thus mentions the sermon in his diary :—

"Midweek, May 28, 1707. Mr. Samuel Belcher preached, from Mat. 6. 10. Thy Kingdom come. Shew'd it was the duty of all to promote the Kingdom of Christ. . . ."—*Vol. II., p. 187.*

Belcher was the son of Jeremy of Ipswich. He was born about 1640 and graduated at Harvard College in 1659.

Chap. 2. This chapter is from council records, vol. VIII., p. 297. It has not been found in the archives.

By chapter 70 of the resolves of 1704-5 a hearing upon Usher's accounts was appointed for November 14, 1704. At the time appointed "His Excellency sent a Message to the Representatives to Acquaint them that him self & the Council were sitting & ready to attend the Hearing appointed for John Usher Esqr late Treasurer upon the Articles in his Accompts in Question :— Answer was return'd that the House was thin & their Speaker not come to Town, & desired that it might be defer'd till the After-noon, Wch was Agreed to.

Post Meridiem : A Message was again sent to desire Mr Speaker & the House to come up, Which was accordingly attended, And Mr Usher was heard before the whole Court.

Adjourned unto To Morrow at ten in the Morning."*

On the fifteenth, in the Council, it was "Ordered that the Papers relating to the Accompts of John Usher Esqr late Treasurer produced upon the Hearing yesterday before the whole Court be sent down to the House of Representatives, for that House to act first thereupon."†

The papers referred to in the foregoing order included the following answer of Usher to the report of the committee, printed in the note to chapter 3 of the resolves of 1704-5 :—

"In Answer to the Committees reportt on other Side hūbly offer vizt

Acco^t Mony pd to Sr E Andross Govern^r Kings Territory & Dominion att Sundry paym^{ts} for wch had his receiptts & Same lodged att White Hall vizt :

ffrom Decbr 1686 to July 1687 Sndry paym ^{ts}	£652 : 6 : 3
from July 1687 to Janu 1687/8 ditto	£599 : 11 : 3
from Janu 1687/8 to July 1688 ditto	£666 : 8 : 6
ffrom July 1688 to Janu 1688/9 ditto	£1450 : . . . -
ffrom Janu 1688/9 to Apr 1689 p ^d M ^r Wells	£800 :
pd to Sr E Andross from Janu : 1688/9 to Apr	£118 : 3 : 4

£4286 : 9 : 4

When I was in Eng^d to make up Acco^{ts} as Treasure^r of Kings Territory & Dominion wth W^m Blathwait Esqr Anditor Gen^l the aboue S^d sum of foure Thousand Two hundred Eighty Six pounds : Nine shill^s & 4^d carried of to every halfe years Acco^t for Sallary As underneath vizt

July 1687 Carried to Kings Acco ^t for Sallary	£750 : - : -
Janu 1687 ditto	£750 : - : -
July 1688 ditto	£750 : - : -
Janu 1688/9 ditto	£1074 : 6 : 10 ⁴
Apr 1689 ditto	£962 : 2 : 5 ⁴

4286 : 9 : 4

ffor 800^l pd to M^r Wells was by Sr E Andross ord^r when to Eastward vizt ag^t the ffrench & Indian Enemy : though Exspresed in 2 receiptts for Subsistance Souldiers to Eastward by M^r Wells receiptts, Sr E Andross takes itt to his Sallary ; gines ye Country C^r Soe much in partt of his Sallary : & Kings Acco^t charged wth the Same towards Sallary : Acco^t Subsistance Souldiers nott charged therewth

Sr E Andross in his Acco^{ts} makinge the Govern^{mt} D^r to him many hundereds of pounds, if wrong applyed to Sallary ; Sr E Andross must be made D^r in his Acco^t Soe less due to him.

paying Sr E Andross from X^mas to Apr following the Govern^{mt} being the Kings, & allowance of Sallary to the Govern^{or} appointed by y^e King : Nota Sr E Andross being in the Govern^{mt} to Apr 1689 untill the revolution.

Acco^{ts} made up & Stated in Eng^d wth the Auditor Gen^l As for paym^{ts} of 437^l to Apr 1689 being noe ord^r Councill could nott the Govern^{mt} being seized outt of his hands

The Sallary Apointed & allowed by the King to Apr judge a good allowance, if s^d Summ was nott rightly Applyed, Sr E Andross mightt be made D^r for the same in acco^t of his disbursm^{ts} all wch is humbly Submitted to by

JOHN USHER."—*Mass.*

Archives, vol. 101, p. 263.

Another of these papers is the following rejoinder of the committee to Usher's petition :—

"In answer to Jno Vssher Esqr his petition to setlm^t of his acco^{ts} &c.

The Comite are of opinion, y^t it be offer,d

That upon examination thereof ye acco^{ts} are chardged wth Considerable extranagant summs payd for salaries, That noe orders : of Council is produced by him to Justifie sd paym^{ts}

That to Sr Edm^d Andros at generall paym^{ts} for salary amounting in ye whole to four thousand two hundred Eighty & six pounds nine shillings & four pence; onely Eight hun-

* Council Records, vol. VIII., p. 87.

† *Ibid.*, p. 88.

dred pounds part of y^e s^d sum applyd to salary is exprest in two Receipts of 400^l Each giuen by phillep Wells Sr Edm^d Andros order to be for subsistanc for y^e new Rayds forces to y^e Eastward & is allowed of in the Treasurers acct^l

To y^e Surueyor & Auditor Genl^l y^e sum of six hundred Eighty three pounds Elenen shillings & six pence

To y^e s^d J^{ns} Vssheras Treasurer y^e sum of seauen hundred thirty six pounds two shillings & three pence; For w^{ch} seruice the Comitte are of opinioⁿ y^t three hundred pounds is sufficient Recompence, (y^e acct^l being debited for all charges & loss upon Grain) & is far more yⁿ en^{er} was allowed to any former treasurer w^{ch} in this prouince

To y^e Article of forty five pounds three shillings & four pence payd to m^r West &c. & for Oates it was upon Sr Edm^ds order only

Further it is observable & to be Noted That tho in the s^d acct^l in y^e time of Sr Edmund Andros Gouernm^t Credit is giuen for his Majestys third part of y^e Forfeitures received for breaches of y^e acts of trade & Navigation: yet noe Cred^t is giuen for what was reed on y^t acct^l durieng y^e time of y^e president & Council w^{ch} was Considerable

And farther offer to y^e houses Consideration

That this prouine is but a part of y^e Territory y^t Sr Edm^d Andros was Gou^r of

That this Mony raisd & exhaust^d from this part was without an Assembly: w^{ch} is Contrary to the Liberties & p^ruileges of English subjects; & y^t a former Law of y^e Colony was w^restd & abused for y^t End

That If s^d Sr Edm^d Andros had Raisd one penny on y^e pound throughtout y^e whole Territory y^t he had y^e Gouern^t y^e of: it would hane amountd to far more yⁿ would have payd; s^d Treasurers demands

That y^e s^d Vsher hath giuen any Crd^t in acct^l for fines & Mulets Exhaustd from perticuler Townes y^t would not pay Taxes without a Genl^l Assembly we find not:

Nor doe we find y^t s^d vsher was a stated Treasurer by any act of the Gou^r & Council then in being."—*Ibid.*, p. 273.

The first recorded action of the House upon these papers was as follows:—

"In the House of Representatives Novr 18: 1704

The Question being Put whether the Report of the Comitte^e abovewritten be accepted, and rendred as an answer to the Petition of John Usher Esq^r respecting his acct^l?

It Pass'd in the affirmative

JAM^s CONVERSE Speaker."—*Ibid.*

This vote was sent to the Council on the same day, and read at the Board.

On the twenty-seventh of November, 1705, Usher presented a new petition "as to his claim of debt," which was read in the Council and sent to the representatives. No copy of this petition has been discovered, but the following entry in the legislative records of the Council shows its purport and also the action taken thereupon by both branches of the Legislature:—

"A Petition of John Usher Esq^r exhibited the 27th of November past & sent down to the Representatives, & Setting forth that a Committee was appointed at the Session of the General Court begun the 31st of May 1704, for the Examination of his Accompts as lato Treasurer, & on the 28th of June following, reported that there remained due for Ballance £.1038.8.1. W^{ch} Report was Accepted by the Gouernor & Council, Praying a determinate Answer Whether this Court will Order the Payment of the said Sum of £.1038.8.1. with Interest or not; Was sent up from the Representatives with the following Resolve thereon; Viz.

Dec: 1st Resolved that the Suggestion of the Petitioner is mistaken, The Committee appointed by this Court which he refers to not having reported any Ballance due to him upon his Accompts.

Dec: 4th Upon a further Consideration of the within Petition,

Ordered that the following Answer be return'd thereto, Viz, That after the Petitioner had been heard before this Court upon the 14th of November 1704, referring to his Accompts, This House upon the 18th Day of the same Month, return'd Answer to his Petition, wherein are diverse material Objections against his Accompts not yet answered, to which We refer him, no new Matter being since offered.

And if his Accompts were cleared, We know not why he sh^d make his repeated Applications to this Province, more than to the rest of the late Territory whereof he was Treasurer, especially since We understand other Parts thereof are considerably more in Arrears of the Taxes then demanded than this Province, And if upon a true Adjustment of his Accompts any Thing should appear to be due to him (Which never yet appear'd to any of the Committees of this Court that have examined them) They ought to pay it & not this Province: Which were read at the Board."—*Council Records*, vol. VIII., p. 179.

On the next day after the above petition had been read and further considered in Council, the General Court was prorogued and did not again assemble until April 10, 1706. On the second day of this new session the petition was read again in Council, and sent to the representatives, but no further action upon it has been discovered.

Usher's petition at the present session has not been found, unless it was a revival of the petition presented by him at the third session of 1706-7, which is as follows:—

"To His Exy Jo^s Dudley Esq^r Cap^t Gen^l & Gouernor of Her Majtys province Massachusetts Bay Council & Assembly now setting

The Humbl^e petition Jn^o Usher Esq^r

Sheweth

Yor petition^r for aboutt fourteen years hanceng made Application to this Govern^{mt}, as may appear by Sundry petitions on file in Sr W^m phips, my L^d Bellamontt, & Now His Exy Jo^s Dudley Esq^r for paym^t of Ballance of his Acco^{ts}, being One Thousand Thirty Eight pounds Eighteen shill^l & 1^d As by report of a Committee of both Houses made; may appear;

yor petitioner being Seventen years keptt outt of his Mony; Interest of w^{ch} would amount to aboue One Thousand pounds, part of w^{ch} One Thousand thirty Eight pounds

in perticuler disbursed for the then Govern^{mt}, for Sloope Mary, w^{ch} Sloope was ceized by this Govern^{mt} in time of revolution, amounting to Three hundred Sixty Seven ponds 11/ 11^d alsoe One hundred Eighty Seven pounds: fifteen shill^s & 3^d; Advanced after Govern^{mt} ceized, & was Imprisoned for partt, n^{ottw}thstanding the Kings protection, the Abone S^d Summs being for Service of this immediate Govern^{mt}, amounting to fine hundreded fifty fine pounds 7: 2^d Interest of w^{ch} amountts to aboue fine hundreded pounds all w^{ch} hath greatly bin to his Damage

pray Same may be taken into considerat^{io} & have the Ball^a of his demands wth Interest paid him, or reason for n^{ott} soe doeing, Answers haneing bin fully given to all Objections made, desiring a finall Answer in doeing of w^{ch} you will oblige yor^e petition^r, & shall as in duty bound ever pray

JOHN USHER." — *Mass.*

Archives, vol. 101, p. 313.

This petition was read in the Council October 28, 1706, and sent to the House for concurrence. On the twenty-ninth it was read in the House and on the thirty-first the following vote thereon was passed:—

"The Petitioner offering no new matter, The House Refer him to their Answer given him on Dec^r 4th 1705." — *Ibid.*, p. 314.

On the second of November, the petition having been returned to the Council with the above vote of the representatives thereon, the Council voted that they "are of Opinion that it were better to give a present direct Answer, & accordingly proposed a Draught thereof, If the House would make such Answer, & sent it down."*

The following appears to be the draught of the answer above referred to:—

"Proposed by the Council, /.

In Answer to the Petition of John Usher Esq^r late Treasurer of the Territory and Dominion of New-England, This Court haveing duely considered the Reports of several Committees upon the view and Examination of his Accompts; with the Answers made by m^r Usher to the Objections against sundry Articles and Charges therein, Do not find any thing due to him; And therefore Dismiss his Petition." — *Ibid.*, p. 315.

On the thirtieth of May, the present year, Usher again presented his petition "Praying a final Answer to his Applications at sev^l Times made for Payment of the Ballance of his Accompts as Treas^r of the Territory & Dominion of New England, being One Thousand thirty eight Ponds eighteen Shillings & one Peny, As by the Report of a Committee of both Houses the 28th of June 1704, may appear."† This petition was read at the Board on the same day, and, on the thirty-first, the vote which constitutes this chapter was passed, by which it appears that both branches agreed to dismiss Usher's petition for the reasons stated in the vote.

Chap. 4. This chapter is from archives, vol. 71, p. 207. It is recorded in council records, vol. VIII., p. 298.

The following is Beal's petition:—

"Province of y^e } To his Excellency Joseph Dudley Esq^r Cap^{tn} Gen^l and Govern^r in
Massachusetts Bay } Chief in & over her Maj^{ty}s s^d Province &ca: and to y^e hon^{ble} her Maj^{ty}s
Council and house of Representatives in Gen^l Court Assembled May
y^e 29th 1706

The Petition of Arthur Beal of York in y^e Province of Maine humbly Sheweth, that whereas John Hobbs a Soldiar und^r Com^{and} of Lt Collo^l March in y^e year 1703 lay lame with a Swelling in his Leggs at my house in s^d York Seven weeks & three Days not able to help himselfe my wife did at y^e Request of Cap^{tn} Abram Preble his p^{sent} Command^r at that time Administ^r Such means as Restored him againe y^e Charge of w^{ch} together with Attendance Amounts to y^e Sum of four ponds & Eight Shillings which y^r Petition^r humbly hopes will be allowed by y^r Excellency & this great Assembly, Considering my poverty Living in y^e most Exposed part of y^e frontiers with a great family, & y^r Poor Petition^r Shall ever pray as in Duty bound &ca

ARTHUR BEAL." — *Mass.*

Archives, vol. 71, p. 207.

This petition was read in the House on the twenty-fifth of June and referred to a committee, who brought in the following report on the same day, which was read in the House "and accepted:—"

"In Ans^r to y^e petition of Arthur Beal

The Comitte Report

That there being noe Evidence lajd before us of y^e Certainty of what he Informes of & prays for: there Cannot yet any allowance be made

By ord^r of y^e Comitte

NEN. JEWETT. chairmaⁿ." — *Ibid.*,

p. 208.

The matter appears to have been kept alive by continuance until the fourth session of 1706-7, and the following affidavits were filed:—

"Wm Peas of fould age testefeyeth & saith that sum time in y^e year 1703 that hee saw John hobs brought in to arther Bealls hous was so sick that the sead hobs was not abell to stand nor goo & after hee had ben thar sum Consederabell time i san him agen & hee was perfect well & that y^e sead hobs was pout thare By Cap^{tn} abraham prebelle. Juner &

* Council Records, vol. VIII., p. 252.

† *Ibid.*, p. 296.

forder hee the said Prebell Dead prommes send beaill hee the sead Beall shouldd bee payd for ther pens in taken Car of him & forlor ses not

WILLIAM PEARCE

ye 17 of febarey 170th william Parce pesenallyy apeared Beo fore mee & made oth to all aboue written as atest By mee

WM PEPPERRELL Js pes." — *Ibid.*,

p. 210.

"The Deposition of Isac Pett of full Age Testifyeth and saith That John hobs a soulder Was Broht To y^e hors of Arther Beall of York so Lame y^t he Could nither stand nor Goe but Was Brought By Men and y^e Wife of sd Beall Used Many Means for his Cure and I Helped My self To Tend him and When he Went away he Could Boath stand & Goe and Was able to Gett up on y^e hors himself and Rid Away & further saith Not—

ISAAC PETT

Isac Pett aboue named personally apeared before me the subscriber this 3th day of march 170th and oath to the aboue written befor me

ABRA^m PREBLE Justis peace." — *Ibid.*,

p. 209.

"The Deposition of Joshua Knap of full Age Testifyeth And saith That sum time In y^e year 170th John Hobs a soulder: Was: Brought to Arther Bealls hors In York — so Lame Thatt he Could Nithr stand Nor Goe Butt Was Brought to y^e hors ly men and Remained sum Considerable Time and When he Went away he Could Boath stand and Goe and Gott up on y^e hors him self and Rid away & farthr saith Not

JOSHUA KNAP

Joshnah Knap aboue named personally apeared before me the subscriber this 3th day of march 170th and mad oath to the aboue written before me

ABRA^m PREBLE Justis peaces." — *Ibid.*,

p. 211.

The matter having come up again this year the petition was again read in the House June 4, 1707, and the resolve which constitutes this chapter was passed thereon and sent to the Council for concurrence. On the same day it was concurred in, and consented to by the Governor.

The order in Council * for the payment of the allowance granted by this chapter was passed June 16, 1707, and the province treasurer's account † shows that it was paid.

Chap. 6. This chapter is from archives, vol. 71, p. 345. It is recorded in council records, vol. VIII., p. 300.

The following is Healy's petition:—

"To his Excellency Joseph Dudley Esqr Captain Generall and Governour in Chief in and Over her Majesties Province of the Massachusetts bay & the Hon^{ble} y^e Council, & Representatives in General Court Assembled—

The Humble Petition of Nathaniel Healy of Newtown in said Province

May it please your Excellcy

Your Humble Petitioner having at his own proper Cost Armed his Son Nathaniel Healy into her Majesties Service under the Command of Captⁿ Josiah Parker At Groton on the 21 day of July 1706, y^e Petitioners said Son was slain and his Gun Carried away by the Enemy who Waylaid him and Others as they were going to Meeting On the Sabbath day—

Your Petitioner humbly Prays that he may be Supplied with Another Gun at the Province Charge for Another of his Sons, Or be otherwise allowed as Your Excellency shall think meet

And Your Petitioner as in duty bound Shall ever pray &c

NATHANAELL HEALY." — *Mass.*

Archives, vol. 71, p. 345.

This petition was read in the Honse June 5, 1707, upon which day the resolve which constitutes this chapter was passed by both branches and consented to by the Governor.

The soldiers killed were Nathaniel Healy, and Ebenezer, the brother of Henry Seager, ‡ who was the soldier taken captive.

The order in Council * for the payment of this allowance was passed June 16, 1707, and the province treasurer's account † shows that it was paid.

Chap. 7. This chapter is from archives, vol. 71, p. 186. It is recorded in council records, vol. VIII., p. 300.

Lewis's petition was as follows:—

"To his Excellency Joseph Dudley Esqr Cap^t General and Governor in Chief in and over her Maj^{ties} Provinces of the Massachusetts bay To the Hon^{ble} the Council and House of Representatives now in General Court Assembled in and for sd Province Nov^r 22^d 1705./.

The Humble Petition of Robert Lewis

Sheweth

That y^e Petitioner was Impressed into his Maj^{ties} Service in Sr Edmond Andros's time

* Executive Records of the Council, vol. 4, p. 416.

† *Mass. Archives*, vol. 123, p. 29.

‡ See chapter 53, *post*, and note.

§ "July 21, 1706. Sab: 2 souldiers slain, & one carried away by the enemy at Groton. They were all new-Cambridge men, & were returned to their Post from one Bloods house, who had invited y^m to Dinner." — *Pike's Journal, in Proc. Mass. Hist. Soc., 1875-6, p. 143.*

where he served as a private Centinel under the Command of Capt Joseph Smith about the space of three months, and afterwards Impressed again and served about Six months under the Command of Major March now so called then Ensigne and was wounded at Pemaquid and carried thence to Casco & so to Boston where he continued in the Almshouse, lame, about 3 months, and afterwards removed to freetown which being a great way off, & he not knowing who to apply himself to, never reced any thing for his service, and loss of time, neither of the Commissary, nor otherwise.

Yor^r Petitioner therefore humbly prays he may have an order to the Treasurer to receive so much for his s^d service &c. as to Yor^r Excellency and Honor^s in Yor^r Justice shall seem meet. and shall ever pray &c^s/.
 ROBERT LUES." — *Mass.*

Archives, vol. 71, p. 185.

With this petition was filed the following certificate: —

"To the honorable Committee for the Granteing debenter for warr these Lins may inform you that Robert Luist now of freetown was under my Command at the Estward as a solger in the time of Sir Edmond Androses Government was taking sick and sent home and for the time that he was with mee I Can not well tell being a Greecat while agoe
 per me JOSEPH SMITH." — *Ibid.*,

p. 187.

This petition was read in the House November 23, 1705, but nothing appears to have been done upon it until April 12, 1706, when it was read again and referred to the next session. On the fifteenth of November it was "read and committed." By the twenty-second the committee had brought in their report, for on that day it was read in the House and "rejected." It appears to have come up again early in the first session of the present year. On the fifth of June, 1707, it was read in the House and the resolve which constitutes this chapter was passed thereon and sent to the Council for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

The order for a warrant to the province treasurer to pay the amount granted by this chapter is as follows: —

"June 16, 1707. To Robert Lewis the sum of twenty shillings in full for serving his Maj^{ty} as a Centinel, in the time St Edmund Andrews was Governour." — *Executive Records of the Council, vol. 4, p. 416.*

Chap. 8. This chapter is from archives, vol. 40, p. 875. It is recorded in council records, vol. VIII., p. 300.

The particulars of the apprehension of Odell* at Stonington, Connecticut, are given in the note to chapter 79 of the resolves of 1704-5. In an item from the News-Letter printed in that note it is stated that four accomplices of Odell, namely, Peregrine and Benoni White, John Brewer and Daniel Amos, had been arrested and committed to prison as early as July, 1704. After the trial and conviction of these accomplices,† Peregrine White claimed and was paid the reward of fifty ‡ pounds offered in the Governor's proclamation for the discovery and conviction of either of the counterfeiters. Undoubtedly by the testimony of his confederates a "chief contriver and actor" in the crime was discovered to be Odell, so that the Governor was induced to issue the second proclamation, on the eighth of August, offering a reward of thirty pounds for his arrest, which was made at Stonington §

* Odell was an old and incorrigible offender. He had been presented more than once in previous years. He broke jail in 1703, but was recaptured after having committed some thefts and incurred the suspicion of sundry felonies.

† At the November term of the Superior Court of Judicature, Court of Assize and General Gaol Delivery held in Suffolk County two several bills of indictment were found against Peregrine White; one for assisting in counterfeiting and uttering several of the twenty-shilling bills of public credit, and the other for uttering, some time in July, 1704, several counterfeit pieces of coined gold, knowing the same to be so, etc. He was acquitted of the forgery but convicted of uttering the counterfeit coin. At the same term Benoni White and Brewer were severally convicted of counterfeiting, only. Amos, who broke jail after his arrest, was not tried, and no indictment against him has been found in the files. Benoni White professed to have been entitled to the reward which was given to Peregrine; but, though this was not acknowledged, yet upon his plea of guilty, and because of his youth, — he is called a "lad" by Amos, — he was, by order of the Court, taken as an "approver." This was the same misapplication of that ancient term, now obsolete in its original sense, that appears in the witch trials, and in the trial of Quelch and others for piracy. It was clearly used for "queen's evidence," in the modern sense. Brewer was convicted, and sentenced to be set in the pillory for one hour, on a lecture day, and then and there to have one ear cut off, and after to suffer twelve months' imprisonment. By order of the Governor he was spared the loss of his ear, but the rest of the sentence seems to have been executed.

The Whites, apparently, were grandsons or a son and grandson of Peregrine White, the first-born American of English parentage. Peregrine of the second generation had a son Benoni, born January 26, 1686-7. It is sadly suggestive that their progenitor, who was eighty-three years of age, died at Marshfield, July 20, 1704, only five days before his kinsmen were examined and held on this criminal charge.

‡ Peregrine was sentenced to pay a fine of thirty pounds and costs, and to suffer three months' imprisonment. It has not been ascertained that the latter part of the sentence was executed. The amount of this fine was deducted from the fifty pounds awarded to him for the discovery of his confederates, and he received the rest to his own use. In the proclamation indemnity from "punishment" had been promised, and, therefore, unless the fine was held not to be punishment, it is clear that faith was broken with White.

§ The name of his captor appears in the following entry of a vote of advice for a warrant to pay the reward of thirty pounds offered in the proclamation for his arrest: —

"June 26, 1705. Advised and Consented. That a Warrant be issued to the Treasurer to pay the sum of Thirty pounds to Capt^t Walter Groombridge, who first seized Thomas Odell, being the Reward promised by the Proclamation emitted by this Board, he paying thereout to Robert Saunders [Saunders was of Boston; see p. 326, ante] and Derriek Adolph, their just proportion thereof for reseizing, transporting and securing the s^d Odell, at the Judgement of Elisha Hutchinson & Samuel Sewall Esq^{rs}." — *Executive Records of the Council, vol. 4, p. 186.*

two days afterwards. He appears to have escaped from his captors and to have fled to Philadelphia, where he was again arrested and sent to Massachusetts, a prisoner, by Colonel John Evans, lieutenant-governor of Pennsylvania, on board the sloop of one N. Thomas Jones,* bound to Boston.† On the thirtieth of April, 1705, Jones wrote to Governor Dudley from New York informing him of his engagement to safely deliver his prisoner to the Governor at Boston, but adding that his vessel had been driven ashore "in the East Jerseys" and lost, and that Odell had been committed to the custody of the sheriff of Monmouth County, and he promised to wait on Dudley to give him a more particular account of his proceedings. On the twenty-first of May the News-Letter announced that Odell was in jail at New York, whence he was to be sent to Boston. This was followed by the tidings, from Newport, Rhode Island, in the News-Letter of the fourth of June, of his escape there; he having been brought "in Irons on Board Derick Adolph‡ in order to be carried to Boston, to be Tried for his Crime." The next issue of the News-Letter announced his recapture in a barn two miles out of town and his confinement in close prison. On Wednesday, the thirteenth of June, the sloop bringing him from Rhode Island arrived in Boston, and the next day the following entry was made in the legislative journals of the Council:—

"Thomas Odell against whom Proclamation formerly issued for Forging & Counterfeiting the Twenty Shilling Bill of Credit on this Province, being apprehended & sent Prisoner in Irons from Pensilvania was this Day render'd to his Excellency in Council by Derick Adolph Master of a Sloop & Committed to the Common Goal." — *Council Records, vol. VIII., p. 129.*

This was followed, on the fifteenth, by the proceedings thus recorded in the executive records of the council:—

"Ordered. That Elisha Hutchinson, John Foster, Penn Townsend, Andrew Belcher Esqrs & Mr Attourney General be a Committee to make Inquiry and take the examination of Witnesses against Thomas Odell now in Prison for forging, Counterfeiting and uttering of the twenty shilling Bill of Credit on this Province, and the Coines curr^t within the same, and to send for persons before them, and Report what they find in order to his speedy Tryal." — *Vol. 4, p. 178.*

He was accordingly indicted, tried, and convicted § in the Superior Court of Judicature, Court of Assize and General Gaol Delivery at the November term, in Suffolk County.

After about five months' imprisonment he presented the following petition to the General Court, praying to have his sentence changed to transportation:—

"To his Excellcy Joseph Dudley Esqr Capt Generall And Governour in Chief In and over her Majtys Province of the Massachusetts Bay in New England &c And to the Hon^{ble} The Councill & House of Representatives now in Gentle Assembly Convened at Boston In & for sd Province April 10th 1706.

The Humble Petition of Tho^m Odall Prisoner In her Majtys Gole In Boston.
Humbly Sheweth

That your Petitioner was Indicted at the Superiour Court of Judicature held at Boston for the County of Suffolk on Tuesday November the Sixth, 1705. for that he the sd Tho^m Odell Some time in the Summer of the year 1704. at Exeter in New-hampshire; Severall false & Counterfitt publick Twenty Shilling Bills of Creditt of this province for true & Lawfull ones, Did Expose and Vtter &c And was therevpon found Guilty, & Judgm^t given against your Petitioner to pay a Fine to her Majtye of the Summ of Three Hundred pounds, Suffer Twelve Months Imprisonm^t; pay Cost &c And Stand Committed till Sentence be performed, For which your Petitioner is heartily Sorry, & desires to Condemn & take Shame to himself, But forasmuch as it is absolutely Impossible for yor poor & Deplorable petitioner, to perform the sd Sentence, That Little Estate which he had when first Seized, being long Since Consumed & Spent in Fifteen Months|| Imprisonm^t; & Sicknes for a great part of the time, besides the hardship of being in Irons, So that Unless yor Exceley & this Great & Gen^l Assembly will pleas to give yor poor Petitioner Some Relief He must Continue a Prisoner all his Life, Which he humbly Conceives Could not be Designed by the Hon^{ble} Judges in their Sentence, against him, It being a punishm^t Little better then Death, Especially to one in the Middle of his Age, And Capable of Doeing a Great Deale of Good In the World, if his Life be Spared,

Wherevpon yor Distressed Petitioner presumes to Lay his Miserable Condition before this Great & Gener^l Assembly, That you would Please to Mix Mercy with Judgm^t; Abate

* This appears to be the name as signed to the letter, but the "N" is doubtful. A petition to Lord Cornbury by "Thomas Jones of Nassau Island" is among the Historical MSS. of the University of the State of New York (vol. 52, p. 165) which shows that he had some trade with Rhode Island. According to T. P. Hughes (American Ancestry, 1891, p. 205), Thomas Jones of South Oyster Bay, Long Island, was a British officer, born in Wales and domiciled here as early as 1696.

† Major Thomas Jones, who emigrated from Ireland to Rhode Island in 1692, . . . married Free-love, daughter of Thomas Townsend, from whom, in 1696, they received a large and valuable tract of land on Long Island, called 'Fort Neck.' . . . He entered largely into the commerce of that day, the taking of whales along shore, which gave much employment to the Indians, who were very expert in that business. In 1704 he was commissioned by Lord Cornbury, sheriff of Queens county, and in 1710 was appointed ranger general for the island of Nassau.

‡ He died in 1713, and, agreeably to his own desire, was interred near the creek, at the bottom of the upland, on his own farm, and not far from one of the old Indian forts." — *Memorial of the late Honorable David S. Jones, etc., p. 73.*

§ News-Letter, No. 82, says sent "to New York, in order to be sent hither."

|| About 1703, in the census, a person of this name was listed as of the East Ward in New York. — *Documentary History of New York, vol. I., p. 396.*

§ Sewall thus briefly records the fact:—

"Nov^r 9th [1705.] Tho. Odell Sentenc'd to pay a Fine of £300; suffer a years Imprisonment." — *Vol. II., p. 142.*

|| This, of course, included his imprisonment in places without the province.

his Fine, and Change his punishment, Into that of Being Transported out of this Province to Some other of her Majty's Dominions where he may be of Some Use & Service the Rest of his Days.—And yor Poore Distressed Petitioner: As In Duty bound Shall ever pray for the Peace & Prosperity of this her Majty's Province & People:

THO: ODELL."—*Mass.*

Archives, vol. 101, p. 307.

Save a memorandum that this petition was read in at least one branch of the Assembly it does not appear to have received any notice.

The jail-keeper, it seems, deemed the stated allowance for the maintenance of prisoners inadequate to compensate him for the care and support of Odell. He therefore presented to the General Court at their third session in 1706-7 the following petition:—

"To his Excellency Joseph Dudley Esq; Capt General and Governour in Chief in and over her Majesties Province of the Massachusetts Bay in New England. And To the Honourable the Council and House of Representatives now in General Court assembled Octor 24. 1706.—

The Humble Petition of Daniel Willard Keeper of her Majesties Goal in Boston.—
Sheweth

That Thomas Odell at her Majesties superior Court of Judicature holden at Boston on the first Tuesday of November 1705 was sentenced to pay a fine of three hundred pounds to her Majesty and to suffer Twelve months Imprisonment and was accordingly Committed to the prison in Boston where he hath lain twelve months the fourth day of this November. (1706) by all which time your Petitioner hath been forced to keep him at the prison allowance and hath disbursed for him as Ψ the Account underwritten Appears, he having nothing of his own to help himself withall.

Yor Petitioner therefore humbly prays this Great & General Assembly to take the premisses in their serious Consideration and that he may have his Account allowed and paid;—

And shall ever pray &c.

To Diet from Novr 4 1705 to Novr 4. 1706. 52 weeks at 3/. Ψ week/	£. .7 - 16. -
To fire wood last Winter	" .2 - " -
To one weeks Diet before he went to y ^e Castle	" . . . 3, 6
To fees for Turning the Key	" 5, -
	<hr/> £10. 04: 6 <hr/>

Boston Novr y^e 4th 1706.

DANIEL: WILLARD."

—*Ibid., vol. 40, p. 873.*

This petition was read in the House on the seventh of November and again on the eighth, when it was rejected.

Willard renewed his application to the Assembly by presenting the following petition at the fourth session of 1706-7:—

"To his Excellency Joseph Dudley Esqr Captain General and Governor in Chief and To the Hon^{ble} her Majesties Council and House of Representatives for the Province of the Massachusetts Bay now in General Court assembled March 5th 1706.

The Humble Petition of Daniel Willard Keeper of her Majesties Goal in Boston.
Sheweth

That yor Petitioner presented his Petition to this Great and General Assembly at their last sessions referring to the Keeping of Thomas Odell for one Year Ending 4th November last amounting as Ψ the acct^o to s^d Petition annexed to the sum of * since which time to the Sixth Court are seaventeen weeks and three days, which at 3/ Ψ week for Diet, and 12^d Ψ week for firewood amounts to three pounds & ten shillings and his Petition not having been granted the last sessions—

Yor Petitioner humbly Prays that the sd sum of * mentioned in the Accot^o to his former Petition annexed, and also the sd sums of three ponn^ds ten shillings since due as aforesd: may be now granted him he having Urgent occasion for the same

And yor Petitioner shall ever pray &c^o/.

£3. 10, -
p. 874.

DANIEL: WILLARD."—*Ibid.,*

This petition was read in Council and sent to the representatives March 10, 1706-7. No further action appears to have been taken upon it until the meeting of the next Assembly, when it was taken up in the House of Representatives June 4, 1707, and read a first time. On the next day the resolve which constitutes this chapter was passed in the House and sent to the Council for concurrence, where it was immediately concurred in, and consented to by the Governor.

The order in Council† for the payment of this allowance was passed June 16, 1707, and the province treasurer's account‡ shows that it was paid.

See the order of October 21, 1713, in the resolves of 1713-14.

Chap. 9. This chapter is from counell records, vol. VIII., p. 300. It is preserved in archives, vol. 40, p. 891.

In accordance with the order of the General Court, 1706-7, chapter 66, Captain John Culley as attorney for Nicholas Andrews, the original plaintiff, filed the following complaint for affirmation of judgment against English, the appellant, who had failed to enter his appeal, as shown in the note to the chapter above referred to:—

* *Stc.*

† Executive Records of the Council, vol. 4, p. 416.

‡ *Mass. Archives, vol. 123, p. 27.*

“Essex ss. To the Hon^{ble} Her Majestys Justices of the Superior Court of Judicature &c. holden at Salem for s^d County of Essex the Second Tuesday in November Anno Dom 1706.

The Complaint of John Calley of Marblehead in the County afores^d Marriner Attorney to & in behalfe of Nicholas Andrews of Marblehead aforesaid Marriner.

Sheweth.

That whereas the s^d Nicholas Andrews prosecuted his action, to wit, a plea of Tresspass on the Case at Her Majestys Inferiour Court of Common pleas holden at Ipswich for s^d County of Essex March the 26 Anno Dom 1706.

Where the s^d Nicholas Andrews was then Plan^t & Philip English of Salem afores^d Merchant Deft as by s^d Writ more particularly appears: And whereas upon the afores^d action or plea at the Inferiour Court afores^d the s^d Andrews Recovered a Judgment of the s^d Inferiour Court as by s^d Judgment appears.

From which s^d Judgment the then Deft English craved an appeal to the then next Superior Court of Judicature to be holden within s^d County & Recognized with Sureties for prosecuting his said appeal, as in & by s^d Recognizance may appear. All which notwithstanding the s^d Philip English hath not prosecuted his s^d appeal at the s^d Superior Court according to his said Recognizance.

And whereas there was an order of the great & General Assembly of this Province August 20th 1706, that your honours Complainant Attorney to s^d Nicholas Andrews should Enter his Complaint (as the Law directs) in the then next Superior Court of Judicature to be holden within the County of Essex for affirming the s^d Judgment of the s^d Inferiour Court notwithstanding the Court appealed to be past

Wherefore your honours Complainant prays your honours would affirm the s^d Judgment of the s^d Inferiour Court pursuant to the order of the General Assembly afores^d with Costs & with the Intervening Costs of this Complaint.

for your hon^{rs} Complainant.

JOHN CALLEY Attorney for

Nicholas Andrews

A true Copy Exam^d ¶ ELISHA COOKE Cler.” — *Mass. Archives*, vol. 40,

p. 900.

The above complaint was duly entered at the November term of the Superior Court of Judicature at Salem, when the case was continued for advisement to the May term, 1707, at Ipswich.

In the mean time the following affidavits by the two arbitrators were filed in the case, presumably on the motion of Andrews's attorney: —

“I Andrew Belcher say that some time last Summer I was desired by Mr John Cauly & Mr Philip English to be on an Arbitration for them with Mr Sam^l Lillie Wee accordingly mett where the afores^d Cauly & English delivered my self & s^d Lillie sundry papers Relating to a Controverisie between s^d English & Nicholas Andrews, s^d Cauly being Attorney to s^d Andrews, they the s^d Cauly & English went on to declare the Matter in Controverisie, & desired Mr Lillie & my Self to Issue it, but it being the time of the sitting of the General Assembly, which I was obliged to Attend so as that We Informed both parties that We could not bring the same to an Issue in the time set in the bonds of Arbitration upon which they both readily Agreed to give farther time which was Accordingly by them done; But the many pressing Affairs of the Publick the which I was obliged to Attend were such as prevented my Meeting with Mr Lillie untill the farther limited time was expired, Mr Lillie and my Self mett once & did take a view of the papers but found the matter of such difficulty, that We wanted farther Information from both parties. And I was not willing to Enter upon it without their being present. Mr John Cauly being gone in the Publick Service. And Mr Philip English not in Town was the Reason Mr Lillie and my Self did proceede no further; this is the Substance of what I Remember concerning s^d Affaire.

Boston 11 february 1706/7.

AND^{ly} BELCHER.

Die ¶ diet. Jurat: Cor: ISA ADDINGTON J Pac:

A true Copy Exam^d ¶ ELISHA COOKE Cler.” — *Ibid.*, p. 902.

“I Sam^l Lillie say that sometime last Summer I was desired by Mr Cauly & Mr Philip English to be an Arbitrator for them with Capt Andrew Belcher Esq^r, Wee Accordingly met at Capt Belchers house where the afores^d Cauly & English gave in Several papers & declared the Matter on both Sides to Capt Belcher & my Self, But on the Account of the Courts sitting & hurry of Business the time in the Bond for giving our award we thought would be too short, upon our proposals to them they agreed the time should be lengthened out as it was, but the Courts Sitting & Capt Belcher Business of his own & for the Publick fell in so at the time as he sayd & my Business also that nothing was done by us nor like to be done in the time of the Bonds, tho for my self was always ready to Attend it, when Capt Belcher would give me Notice as I told Capt Belcher; Mr Cauly came to me desired me to Speak to Mr English for a farther Continuance of the Bond for time, which I told Mr English of & he told me he would do it, and desired me to speak to Capt Belcher & Mr Cauly if he was willing I accordingly told Capt Belcher of it at his house and a few days after mett with Mr Cauly at Mr Lewis at Linn and told him what I had said to Mr English & that he was willing to lengthen out the Bonds he made me Answer that he had also Spoke to him & he says he wont do it & that he had not been as good as his Word & therefore he would have nothing to do with him as to the Arbitration but would take other Methods with him. I told him that I was going to Salem & would discourse him & tell him what he had sayd to Me and that I was well satisfied that he would not go back from his Word, for that he was so ready to Comply with it before and that I beleived it was some misunderstanding between them & that if he should Refuse I would perswade him to do it, If I could, Mr Cauly made Answer that if he was now Willing he would not or Words to that purpose, but did utterly refuse to have any thing done by

Arbitration since it was not done in the time of the Bonds this was the Substance of what I know of that affair to the best of my Remembrance.

10 Feb: 1706/7.

SAMLL LILLIE.

Sam^l Lillie abovenamed personally Appeared before Me the Subscriber. Salem. february 10. 1706/7 & made Oath to the truth of this his Evidence.

JOHN HATHORNE Justice peace
Nicholas Andrews notified as Mr Philip English his Son William Testified, but not present when the Evidence was taken." ‡ — *Ibid.*, p. 903.

Judgment was rendered for the original plaintiff at the May term, the record of which is as follows:—

"*Anno Regni Regine Anne Angliæ &c Sexto.*

At Her Majestys Superiour Court of Judicature, Court of Assize & General Goal Delivery begun and held at Ipswich within & for the County of Essex, on Tuesday May the Twentieth *Annog; Domini* 1707. . . .

Upon Reading the Complaint of John Calley of Marblehead in the County of Essex Marriner Attorney to & in behalfe of Nicholas Andrews of Marblehead afores^d Marriner: shewing that whereas the s^d Andrews at an Inferiour Court holden at Ipswich March 26. 1706 he Recovered Judgment against Philip English of Salem in the County afores^d Merchant for the Goods Money & Merchandize Sued for According to Writ & Costs from which Judgment the s^d English Appealed to the then next Superiour Court to be holden in s^d County & Recognized to prosecute which he failed to do And whereas there was an order of the General Court August 20. 1706 for y^e Complainant to enter his Complaint at the next Superiour Court Notwithstanding the Court Appealed to was past: Wherefore Prays that the s^d Inferiour Courts Judgment may be affirmed pursuant to s^d Order with Costs. This Action was entered at the Superiour Court at Salem November last past. It's therefore Considered by the Court that the s^d Nicholas Andrews shall Recover of the s^d Philip English the Goods Money & Merchandize Sued for According to Writ & Costs of Courts." — *Records of the Superior Court of Judicature, 1700-1714, fol. 211.**

Eight days after the beginning of the term in which the above judgment was rendered the General Court convened, and eight days later still the order which constitutes this chapter, save only that the words "the last Tuesday" were omitted, was passed by the Council, upon the following petition:—

"To his Excellency Joseph Dudley Esq; Cap^t general & Governour in cheife in & over her Maj^{ties} Province of the Massachusetts Bay the honoble the Councill & Representatives in genall Court assembled./

The humble Peticō of Phillip English of Salem in the County of Essex merch^t Sheweth./

That one Nicholas Andrews of Marblehead marriner at an Inferiour Court of Common pleas held at Ipswich for the County of Essex in the month of March 1706 recovered Judgment in an Accō of Trover agt your Petr for sundry goods money & merchandize s^d for./ from which Judgment your Peticoner appealed & Entred into recognizance [et †] to prosecute his Appeal with effect & pursuant thereto filed his reasons of Appeal in due time before the Court appealed to as by the papers annexed will appeare./

That before the sitting of the superiour Court appealed to Cap^t Cawley Attorney to said Andrews agreed to submit the matters in difference to the Arbitracon of Messiers Belcher & Lillie & pursuant thereto said Cawley and your Petr entred into an Agreem^t under their hands & filed the same with the Clerke of the said Inferiour Court signifying thereby that they had agreed to reffer said Cause to Arbitracon & that noe advantage shon'd be taken by y^e Judgment or the recognizance for the Appale as aforesaid—as by a true copy hereto annexed of the said agreem^t may alsoe appeare./

That pending the Arbitracon the Superiour Court appealed to elapsed after which noe Award being made the said Cap^t Cawley as Attorney to said Andrews pferred a Peticō

* The following attested copy of the foregoing judgment is inserted here as an illustration of the liberties taken by clerks in making certified copies of their records:—

"Essex ss. *Anno Regni Regine Anne nunc Angliæ &c Sexto.*

At Her Majestys Superiour Court of Judicature held at Ipswich within & for the County of Essex afores^d on Tuesday May the Twentieth. *Annog; Domi* 1707:

Upon Reading the Complaint of John Calley of Marblehead in the County afores^d Marriner Attorney to & in behalfe of Nicholas Andrews of Marblehead afores^d Marriner, Shewing that whereas the s^d Nicholas Andrews prosecuted his Action to wit a plea of Trespass upon the Case at Her Majestys Inferiour Court of Common pleas holden at Ipswich for s^d County of Essex March 26 1706 Where the s^d Nicholas Andrews was then Plan^t & Phillip English of Salem afores^d Merchant Def^t: as by s^d Writ more particularly Appears. And whereas upon the afores^d Action or plea at the Inferiour Court afores^d the s^d Andrews Recovered a Judgment of the s^d Inferiour Court as by s^d Judgment Appears: ffrom which s^d Judgment the then Def^t English Craved an Appeal to the then next Superiour Court of Judicature to be holden within s^d County & Recognized with Sureties for prosecuting his s^d Appeal as in & by s^d Recognizance may Appear All which notwithstanding the s^d Phillip English hath not prosecuted his s^d Appeal at the s^d Superiour Court according to his s^d Recognizance; And whereas there was an order of the great & General Assembly of this Province August the 20 1706 that the Complainant Attorney to s^d Nicholas Andrews should enter his Complaint as the Law directs in the y^e next Superiour Court of Judicature to be holden within the County of Essex for Affirming the s^d Judgment of the s^d Inferiour Court notwithstanding the Court Appealed to be past: Wherefore Prays that the s^d Inferiour Courts Judgment may be affirmed pursuant to the s^d order of the General Court with Costs & with the Intervening Costs of this Complaint. This action was entered at the Superiour Court held at Salem the Second Tuesday of November last past & from thence Continued on adjournment to this Sessions. It is now Considered by the Court that the s^d Nicholas Andrews Shall Recover of the s^d Phillip English the goods Money & Merchandize Sued for According to Writ and Cost of Courts.

A true Copy as Appears of Record

Exam^d ψ ELISHA COOKE Cler." — *Mass.*

Archives, vol. 40, p. 906.

† Manuscript mutilated.

‡ This is from a copy, also attested by Elisha Cooke.

to this honorable generall Court suggesting intru[ely *] as if yor Petr thro designe had purposely been the occasion there was noe Awa[rd*] made & therefore prayed to have the benefit of said Judgem^t & execution forthwith thereupon or to be otherwise relieved &c And thereupon obtained an order in Aug^t 1706. to Enable him to enter his Complaint in the next Superiour Court to be held for the Countie of Essex (without any notice to yor Petr to defend himselfe) & pursuant thereto at the next superiour Court held at Salem in November last filed his Complaint which Court continued the same upon advisem^t untill May last when Judgem^t was entred up ag^t yor Petr thereupon/ without any further Tryall

Now forasmuch may it please yor Excellency & Honor^s that by such Judgem^t yor Petr is utterly defeated of the benefit of his said Appeal & thereby extremely wronged contrary to the intent of the Law having performed every thing to be by him performed and your petitioner in [no*] wise to Fault or Blamed that there was no award made or that the matter did not proceed to Tryall at the Superiour Court on the appeal B[ut*] the s^d Capt Calley in Truth The occasion if not the contriver of it as the arbitrators in part certify and shall otherwise be more fully prd by your petitioner

Wherefore your Petitioner most humbly Supplicates this Great & Generall Assembly to give him some Reliefe in the premisses And that At the least your wronged Petitioner may be Enabled at the next Superiour Court of Judicature Holden in the Countie of Essex to have his originall Appeal Brought Forward and the cause as to the merits Tried again By the Court and Jury and that In the mean time Execution may be stayed on the Judgem^t wh^{ch} the s^d Andrews has so wrongfully obtained against your Petitioner

And Your Petitioner as in Duty Bound shall Ever pray

PHILIP ENGLISH." — *Mass.*

Archives, vol. 40, p. 893.

The above-mentioned order being sent to the House for concurrence, the representatives concurred on the sixth, adding the words, "the day of the hearing to be the first Friday."

No further proceedings relating to this case have been discovered.

Chap. 10. This chapter is from archives, vol. 101, p. 334. It is recorded in council records, vol. VIII., p. 300.

The account itself, though incomplete, is preserved in archives, vol. 122, pp. 262-285.

Chap. 11. This chapter is from council records, vol. VIII., p. 301, and archives, vol. 17, p. 177.

The petition mentioned in the preamble to this chapter was as follows: —

"To his Ex^{ty} Joseph Dudley Esqr Captain Gen^l & Govern^r in Chief in & over her Mat^y Province of y^e Massach^{ts} Bay in N: England, And to y^e hon^{ble} the Council & Representatives w^{hin} y^e Same, now in General Assembly Conven'd

The Petition of Daniel Powning of Boston

Sheweth,

That yor Petr being Guardian to his Neice Mary Bridgham Daughter of Jon^s Bridgeham late of Boston Tanner deced, now ab^t Nineteen years of Age. And the s^d Mary having a Share wth other her Sisters in a certain parcel of Land or Tanyard Situate in Boston afores^d which is of little Improvement or benefit to her by Renting out her part. And an Opportunity presenting to dispose thereof probably to greater Advantage than may hereafter Offer, by reason of an Exchange of lands Adjoining thereto being about to be made. —

Yor Petitioner therefore at the desire of y^e s^d Mary humbly prays, That he may be Enabled by an Order of this hon^{ble} Court, together wth her to make sale of her Share and Interest in the s^d Land or Tanyard. and to Execute a good and sufficient Conveyance in the Law for y^e Same, her not being fully of lawfull Age notwithstanding. —

And yor Petr as in Duty bound shall pray &c

DAN^l POWNING

MARY BRIDGHAM." — *Mass.*

Archives, vol. 17, p. 177.

This petition was read in the Council June 7, 1707, when the order which constitutes this chapter was passed and sent to the House, for concurrence. On the ninth it was read and concurred in, and consented to by the Governor.

The last will of Jonathan Bridgham, mentioned in this chapter, bears date March 13, 1688-9, and was admitted to probate on the twenty-sixth of February following. Besides other specific devises and legacies the testator gave one-third of his real estate to his wife, to hold during her life and at her decease to be divided among six children, including Mary, named in this chapter. By another clause of his will the testator provided that if his wife "shall see cause to marry againe and see not cause to take up" with the portion previously given to her in the will, she should receive two hundred pounds upon renouncing the other bequests. The will contained the following residuary clause: —

"All the Residue and Remainder of my Estate as well housing and Land Moveables stock and personall estate of whatsoever nature Kinde or Quality the same be not herein before disposed of I give devise and bequeath unto these my five Children viz^t Mercy, James, Samuell, Elizabeth and Mary Bridgham to be Equally shared distributed and divided among them part and part alike, to each one his & her heires and assignes forever their severall and respective shares thereof. And if any of my six Children hapen to dye before full age or marriage Leaveing no Lawfull Issue of his or her body, my will is that the part share or portion of my Estate belonging, to such Child or Children so dying shall be equally distributed and divided between all the survivors." — *Suffolk Probate Records, lib. 11, p. 128.*

The widow, who was appointed by the testator to execute the will jointly with his son Henry, took out letters as sole executrix. She died, apparently, during the minority of Mary, not having been married a second time.

Powning was appointed guardian November 6, 1702, of Mary, aged fourteen years, and Samuel, aged eighteen years. By a partition of a part of the testator's estate, no copy or record of which has been found, the parcel which Mary's guardian sought authority to convey was set off to her; but evidently to avoid all question of defect of title growing out of the contingencies mentioned in the will it was thought proper to apply to the Legislature in the foregoing petition. Conveyance under this chapter was made June 25, 1707, to Henry Bridgham, son of Joseph, for one hundred twenty-five pounds current money of New England. The deed recites the substance of the order which constitutes this chapter, and Powning and his ward joined therein as grantors.

The land conveyed is described as follows:—

" . . . A Certain peice or parcel of Land or Tan yard Scituate lying and being at the Southerly end of the Town of Boston aforesaid (being the said Mary's part and Share of Lands lately laid out unto her in the Division of the housing and Lands late belonging unto the Estate of her Father the said Jonathan Bridgham deceased made to and among some of his Children bnted bounded and Measuring as followeth That is to say on the Southerly end by a Certain Lane Commonly called or known by the Name of South Meetinghouse Lane measuring there in breadth fifty feet, on the Easterly side by Land of the said Henry Bridgham, on the Northerly end by a Lane or highway running betwixt this Land hereby Sold, and the Land of the Heirs of Nathaniel or Thomas floxed Measuring there in breadth Fifty feet, and on the Westerly side partly on the Land of the said Joseph Bridgham, and partly on the Land of James Bridgham one of the Sons of the said Jonathan Bridgham, Measuring in Length from the Northerly end to the Southerly end thereof One hundred forty nine feet be the same more or less. Together with the fencing standing thereon and all other profits priviledges Rights Commodities hereditaments & appurres whatsoever thereunto belonging or in any wise appertaining or therewth now used occupied or Enjoyed And the Reversion and Reversions remainder and remainders rents issues and Incomes thereof And all the Estate Right title Interest Inheritance use possession Trnst benefit property claim and demand whatsoever of the said Daniel Powning in the quality aforesaid, and of the said Mary Bridgham and her heirs in and to the abovegranted and bargained premisses & every part thereof. . . ." — *Suffolk Registry of Deeds, lib. 23, fol. 146.*

The Editor is indebted to Mr. Henry H. Edes for locating the land conveyed as above. He states that the lot fronted on Milk Street, on the northern side, between Congress and Bath streets. At the time of the great fire of 1872 it was covered by the granite building formerly occupied as their commission-house by the late widely famous firm of A. and A. Lawrence. After the conflagration this land was taken by the city of Boston to form the present Post-Office Square. To make the description more intelligible to those who do not remember the lay of the streets in that vicinity before the fire, it may be added that the site of the lot is directly opposite the present marble building owned and occupied by the Mutual Life Insurance Co. of New York, which covers land extending to Pearl Street.

Chap. 14. This chapter is from council records, vol. VIII., p. 306. It has not been found in the archives.

The only motion affecting the question of the salaries of the governor and the judges this session was the following, but nothing further seems to have been done about it:—

" June 13, 1707. A Message was sent to the House of Representatives by John Phillips, Jon^{ts} Corwin, Joseph Lynde & John Appleton Esq^{ts} to move their Reconsideration of the Allowances proposed for his Excy. & the Judges." — *Council Records, vol. VIII., p. 307.*

The order in Council* for the payment of the allowance granted by this chapter was passed June 16, 1707.

The allowances granted by this chapter and by chapter 95, *post*, were paid by the province treasurer† in one sum.

See note to resolves, 1706-7, chapter 120.

Chap. 15. This chapter is from council records, vol. VIII., p. 306. It is preserved in archives, vol. 101, p. 335.

This resolve originated in the House June 9, 1707, and was sent to the Council for concurrence, where on the twelfth it was read and concurred in, and consented to by the Governor.

Votes of advice for the issuing of warrants to the province treasurer appear to have been passed, under the authority of this chapter, for the payment of "incident and contingent charges" necessary for the support of the government, or under the clause "for supplying . . . forces," etc., in the following instances: July 17, 1707,‡ for three hundred thirty-three pounds thirteen shillings and tenpence to Isaac Spencer, gunsmith, for fire-arms; July 28, 1707,§ for six hundred sixty-seven pounds fourteen shillings to John Gerrish, gunsmith, for fire-arms; December 24, 1707,|| to Thomas Adkins, carpenter, eighty-four pounds four shillings and ninepence, for himself and others, for timber, plank, iron, priming and making eight field-carriages and two bomb-carriages; July 16, 1708,¶ to Isaac Spencer above named fifteen pounds seventeen shillings for two "Shoulder

* Executive Records of the Council, vol. 4, p. 415.

† Mass. Archives,* vol. 123, p. 25.

‡ Executive Records of the Council, vol. 4, p. 437.

§ *Ibid.*, p. 445.

|| *Ibid.*, p. 507.

¶ *Ibid.*, p. 603.

Guns, one brass & the other Iron, for the throwing of Granado Shells;” * August 2, 1708, † to John Gerrish above named fifty-five pounds fourteen shillings for fire-arms; and to Isaac Spencer ‡ above named seventeen pounds seventeen shillings and sixpence for fire-arms.

The province treasurer's accounts show that the allowances above mentioned were paid. ‡ In his account § from May 29, 1707, to May 26, 1708, he charged himself with sixteen thousand pounds in bills of credit received by him from the committee under this and chapter 81, *post*.

Chap. 16. This chapter is from archives, vol. 108, p. 52. It is recorded in council records, vol. VIII., p. 307.

The progress of the expedition against Port Royal to the time of the sailing of the fleet from Nantasket on the thirteenth || of May is described in the note to chapter 112 of the resolves of 1706-7. Two days after its departure Commissary-General Belcher laid before the Council “his indents” of supplies for the expedition, “with the number and names of the several transports,” and they were approved.

The diaries and letters of the time furnish abundant evidence of a general apprehension, among those who remained at home, regarding the success of the expedition and the safety of the army. “Our friends at Port Royal” was a fruitful theme of discourse from the pulpit and a common subject of public and private prayer.

On board the Deptford on the seventeenth a council of war was held, at which, probably, Dudley's instructions to March and Stucley were read and the plan of preliminary operations at Port Royal decided upon. An order was certainly passed that Colonel Appleton with about three hundred and twenty men, comprising his own company and those of Major Spurr, Captains Talbot, Burrill, Putnam and Hunt, with Captain Freeman's company of Indians, should land on the north side of the basin of Port Royal, while the Commander-in-Chief and the rest of the forces, numbering about seven hundred and fifty, should land on the south side.

The fleet, which had started on its eastward course before “an easy southwest wind” (which changed during the passage to contrary winds and calms), came to anchor in the basin of Port Royal on the twenty-sixth.

Although Dudley's designs against Acadia had been agitated for more than three months, and though, for two-thirds of that time, preparations had been making for this extraordinary demonstration, and notwithstanding the continuance of the negotiations for exchanging prisoners had brought from Port Royal to our seaports some of the shrewdest and most wide-awake officers of New France, yet such was the secrecy with which preparations had been carried on that there is no reason for doubting that the appearance of the fleet was a complete surprise ¶ to Subercase, who, nevertheless, with signal ability and promptness, improved the delay caused by the mismanagement of the invaders to strengthen his garrison, by calling the surrounding inhabitants into the fort, and to increase his stock of provisions.

The soldiers landed in the manner agreed upon, but so late in the day, and at such distances ** from the fort, that they were obliged to take up quarters †† for the night without having reached a position suitable for a camp, or so commanding the fort as to prevent Subercase from reinforcing and provisioning the garrison; and they were not encouraged by this unfavorable beginning.

In their progress to this camping-place Captain Freeman's company, on the left flank of Appleton's regiment, had a warm skirmish with forty or fifty of the enemy, but lost no men.

Early in the morning of the next day both regiments moved forward. Appleton's men were ambushed by about sixty of the enemy, in a deep gully, and lost two men. ‡‡ Pressing on, they took two prisoners, and by noon reached a point north of the fort, and “little more than a musket shot over the north river,” where they fixed their camp.

March's men were also ambushed, by Subercase, at the head of “near three hundred men,” “at a place called Allen's Creek.” The English rallied, however, and, “with trumpets sounding, drums beating, and colors flying,” charged the enemy, at the same time giving “three huzzas.” “After a warm dispute the enemy retreated up a hill.” whither, in face of a brisk fire, the English followed them, driving them over the hill, down the other side of which they fled and on to the fort, pursued by the English as far as the foot of the hill, where the latter encamped. In this encounter, lasting about an hour, the English lost no men and had only five wounded.

It was learned from some deserters that besides the garrison of five hundred men there were in the fort about two hundred and twenty women and children. It therefore seemed likely that a few shells thrown in amongst them would terrify these noncombatants and cause such an outcry as to induce Subercase to capitulate. Accordingly March ordered

* “20th. [June, 1678.] Returned with my Lord [Chamberlain] by Hounslow Heath, where we saw the new-raised army encamped, designed against France, in pretence, at least; . . . Now were brought into service a new sort of soldiers, called *Grenadiers*, who were dexterous in flinging hand grenades, every one having a pouch full; they had furred caps with coped crowns like Janizaries, which made them look very fierce, and some had long hoods hanging down behind, as we picture fools. Their clothing being likewise piebald, yellow and red.” — *Ecelynn's Diary*, vol. II., p. 126.

† Executive Records of the Council, vol. 4, p. 608.

‡ Mass. Archives, vol. 123, p. 24, and vol. 122, pp. 306 and 310.

§ *Ibid.*, vol. 123, p. 7.

|| Twenty-fourth, New Style.

¶ Charlevoix, who admits the surprise and the want of preparations at the fort, including some breaches in the walls, asserts that Subercase had a party of fifteen sentinels stationed on the shore down the bay, who retired to the fort and alarmed the garrison upon the approach of the fleet.

** Appleton landed between four and five o'clock in the afternoon, and March landed half an hour later between six and eight miles below the fort.

†† Appleton's men did not encamp until nine o'clock in the evening.

‡‡ It was on this day, undoubtedly, and possibly in this engagement, that Lieutenant Samuel Sprague received the wound on account of which he was granted an allowance in chapter 40, *post*.

up the artillery, which Redknapp promised to send forward the next day, but failed to keep his promise.

The failure of Redknapp to plant his ordnance so as to protect them and to operate against the enemy's position while they were being marched through the forest, from which it was as difficult to retreat as to go forward, had already added to the discouragement of the rank and file. The want of roads, the broken surface of the ground, and frequent obstructions by the density of the woods, and by fallen trees, obliged them to move at so slow a pace that the enemy, better acquainted with the country, found time to sally forth and attack them in front and on their flanks, without imperiling their own chances of regaining the fort.

Stucley had promised every assistance in getting the ordnance in position for an assault or a siege, but Redknapp discouraged the attempt. March, a man of personal bravery but apparently wholly regardless of the importance of discipline and equally incompetent to enforce it, seems to have become the easy dupe of Redknapp and the martinet on the Deptford, and, probably through their insinuations, entertained groundless jealousies of his brother officers, thus causing or stimulating a spirit of discord.

In their skirmishes with the enemy the New Englanders had shown no lack of zeal or courage, nor want of ability, under competent leaders, to cope with the adversary; but after five days of marching and skirmishing without intrenching and the expected coöperation of the artillery, and evidently with no manifestation by the Commander-in-Chief of any solicitude for their health and safety, nor any effort on the part of most of their officers to inspire them with assurances of the rewards* of victory, the rank and file of the main wing of the army, who had reached the enemy's ramparts, and would have entered the fort under proper leadership, seem to have become demoralized, — not more so, however, than the majority of the officers, whose authority was final, since they had been constituted a court-martial with full discretionary powers.

In this state of despondency of the men and of their loss of confidence in their superiors a court-martial was convened on the thirty-first, which decided to abandon the attempt to demolish or capture the fort, but voted, instead, to do all damage practicable to the buildings and crops of the enemy in that vicinity, and then to reembark and continue their ravages at Menis and Chignecto.

The reasons given for this conclusion are stated by Barnard to have been that "the fort mounted forty-two guns, some of thirty-six pounders, five hundred men in it, our men unacquainted with attacking a fort, and no prospect of getting up the artillery." Hutchinson quotes, apparently from the record or report, that "it was agreed, 'that the enemy's well disciplined garrison in a strong fort, was more than a match for our raw undisciplined army.'"[†]

A messenger[‡] was despatched, apparently as soon as this decision was formed, to report it to Dudley, at Boston. All that has been discovered of the purport of these despatches is the following paragraph of a letter from the Secretary of War to his father, the Governor, preserved in a foot-note by Hutchinson: —

"The ignorance, idleness and slothfulness of some of our officers, make things go on not so smooth as desired; and by the disobedience of private soldiers, we lost two men this day in our very sight, scalped and mangled by the Indians. These and some other difficulties caused the result of a council of war, this day assembled, which I herewith send. The commander in chief will make a general ravage of the country and sea coast, which will be all we shall do at this time.' . . . 31 May 1707." — *Hist. of Mass.*, ed. 1767, vol. 2, p. 167.

By Dudley's enemies it has been insinuated that his explicit directions to Stucley not to endanger the queen's ship were designed to afford Stucley an excuse for not taking an active part in attacking the fort, and that he had secretly intimated his wish, against the expressed wish of the General Court, that the fort be preserved, and if taken that it be garrisoned by the soldiers enlisted for the expedition.

While mismanagement, discord, and the prospect of failure were thus demoralizing the forces before Port Royal, the people at Boston were, apparently, becoming elated with increasing confidence of success.§

The suspension of the embargo on the fifteenth of May, as shown in the foot-note on p. 689, *ante*, had rendered further protection of the coast and coastwise trade expedient. Accordingly, on the thirtieth, a vote of advice was passed by the Council as follows: —

"Advised, That the Briganteen Dragon Captⁿ John Blew commander, be forthwith equipped & armed as a vessel of War to cruise upon the Coast.

And his Excellency issued a Proclamation for Saylor and Souldiers to enter themselves in her Majesty's service and pay on board the sd Briganteen." — *Executive Records of the Council*, vol. 4, p. 409.

After the fleet had been gone two weeks and no adverse report from it had been received, the Governor prepared a package which he ordered to be immediately despatched by an express messenger to Stucley at Port Royal, as appears by the following letter: —

"Captⁿ Stucley

S^r,

I recd^d his Excellency the Govern^r's order with the Inclosed and was Immediately to send an Express with the same, which accordingly comes by the

* It was publicly stated at the time, and not denied, that a report had gained credence among the men that it was Dudley's intention, if the fort should be taken, to garrison it by impressment from their ranks, for an indefinite time, contrary to the terms of their enlistment. It does not appear that pains were taken to contradict, in the Governor's name, this suggestion, the demoralizing influence of which must have been apparent to all, since the soldiers' dread of the hardships of garrison life even so near home as the Castle, in Boston Harbor, was notorious.

† *Hist. of Mass.*, ed. 1767, vol. 2, p. 166.

‡ The messenger appears to have been Samuel Hill, in the sloop *Charly*; and he seems to have been detained a few days in order to take back with him the duplicate letters.

§ Charlevoix (*Shea's Translation*, vol. V., p. 195) declares that they had already begun to celebrate the victory and this statement is credited by Murdoch (*History of Nova Scotia*, vol. 1, p. 289) and the *Universal History* (vol. 40, p. 152).

sloop may Flower* Michael Coombes Pilot and master of sd sloop, I Imprest both sloop & men, and they to be discharged upon delivery of the Letter directed to your self, they are upon a Fishing Vvoyage and thought it better to send them, then a vessell on purpose to Returne, You haueing many Vesells to send upon occasion. I begg & desire of you to discharge the sloop & men upon delivery of the Letter and you will much oblige
Yor Humble servt at Comand

Marblehead May 27th 1707
Archives, vol. 63, p. 87.

EDWARD BRATTLE." — *Mass.*

Whether or not March's instructions, or the despatches thus entrusted to Coombs, were such as to justify or give color to the charges and insinuations against Dudley it has not been found possible to determine; but the desire of the rank and file to get away and stay away from Acadia cannot be more plausibly accounted for than by crediting the statement, made at the time, respecting the fear, heretofore mentioned, § of the soldiers that they were to be forced to endure the privations and miseries of garrison life in that remote and inhospitable region for an indefinite time. That Dudley would not scruple at such a breach of good faith seems to have been as commonly believed as that neither patriotism, regard for the lives of his soldiers, nor the fear of public censure would restrain him from any venture which offered a prospect for gratifying his inordinate greed of gain.

Before the arrival of the fleet at its destination could be known in Boston the General Court for the year 1707 convened. This was on the twenty-eighth of May; and two days later the Governor delivered his opening speech to both branches, the burden of which related to the war, as follows:—

"Gentlemen, At the Instance of the Representatives in the last Session of the Assembly, & by the Advice of her Majesties Council of both Provinces I have equipt One Thousand effective Men for a Land Force on an Expedition to the Coast of Nova Scotia & L Acadie, & put them under the Command of proper Officers, & they took their Departure hence seventeen Days since, In which I have had a very honourable Assistance from her Majesties Government of Rhoad Island as well as a proper Force from the Province of New Hampshire.

I am sensible her Majesties Subjects of these Provinces have not seen such regular Service as the Wars of Europe or the present Expedition may demand, but I am well assured of their Courage & Readiness to bear any Hardships necessary at all Times, And particularly their Cheerful Entrance into the Service gave me Hopes that the good Providence of All mighty God will dispose all Things for our Benefit & Success, And shall be glad that We may have Notice of their Proceedings during your being together, That I may have your Advice in any Thing further necessary. . . ." — *Council Records*, vol. VIII., p. 296.

The Assembly had been in session nearly two weeks † when the first despatches sent from the army at Port Royal arrived. Immediately thereupon the impression seems to have got abroad that an abandonment of the attack on the fort had been under consideration by the court-martial, and had been referred to the Governor for final decision. Accordingly "a considerable number of merchants and other inhabitants" of Boston presented to the Legislature an address which, after having been read in the House, was sent to the Council and there read, "And by his EXCY's. Order sent to the Commander in Chief of the Forces." ‡ The purport of this address has not been discovered; but, during the day on which it was acted upon, the Assembly were engaged in considering what response they should make to the despatches from Port Royal. A message having been sent from the representatives to the Governor requesting "that the House might have the Sight of Coll: March's Instructions. His EXCY. directed the SECRY. to attend the House therewith, which were Read by the Clerk of the House & afterwards Read in Council." †

Soon after this, the following order was passed by the representatives and sent to the Council:—

"In the House of Representatives. June 10th 1707

Ordered That a Message be sent up to the Board referring to the forces at Port Royall

That according to the understanding this House has of their circumstances by the advice received from them, They think it advisable (if nothing since has occurred to forbid it), That They Continue before the fort, & Prevent all Supplies coming to them And if by any means they can, to make themselves masters of it: However are of opinion, that the officers upon the place, are most capable of Judging, what may be best for her Majties Service, & practicable against the enemy, therefore continue to advise, as this Court did afore to leaue it to them to do as they shall Apprehend will prove most advantageous,

JOHN BURRILL Speakr." — *Mass.*

Archives, vol. 71, p. 346.

This order was immediately read in Council and returned to the House, with a message communicating the fact that probably the forces had already removed from Port Royal, and soliciting advice as to what course should be taken in that contingency. The record of the action of the House upon this message is as follows:—

"The Vote above written Brought down from the Board by Jno Higginson Esq: with a Message, viz: That It appear's by the Papers, that the forces at Port-Royall intended soon to remove thence & that the Messenger from them just as he came away saw smoaks at Port Royall which probably was the Burning of the Houses upon their removing, therefore Desire the House's advice whether they would have them ordered back to Port Royall again, if they have left the place?

* The May Flower was owned by Brattle, and for its use and the wages, etc., of the crew on this occasion he was allowed and paid from the province treasury £9 0s. 9d. — *Mass. Archives*, vol. 122, p. 301.

† The despatches were received by the Governor on the night of the ninth of June, and communicated to the Council the next day.

‡ *Council Records*, vol. VIII., p. 304.

§ See foot-note on the preceeding page.

Ordered That a Message, be sent up to the Board orally by Col: Checkley, with the said vote, That if the fleet be come from Port Royall, in order to come home This House don't Advise, They should be order'd back again."—*Ibid.*, p. 347.

What next followed does not appear. It is certain, however, that on the eleventh the Governor communicated to the Council his letters to March, Redknap, Stucley and Southack, "and then sent them down to be perused by the House." These letters, probably, were copies or duplicates of the letters conveyed by Combs on the twenty-seventh of May. If the army had actually reembarked on the thirty-first it was evident that the May Flower could not have reached them in season to change their determination, and not being apprised of their intention to leave Port Royal she, in all probability, would have failed to intercept them and to deliver to them the Governor's letters; hence, apparently on the eleventh, the Governor sent his letters by Hill, who was about to rejoin the fleet. It was not certain that Hill would meet them; so, in order still further to insure the communication of these last directions to the officers of the fleet and of the army, the Council, on the twelfth, passed the following order:—

"Ordered. That Mr Commissary General be directed to take up a small Sloop or other Vessel to send to Nova Scotia to repeat the Orders Express'd to her Majty's Forces there for fear of miscarriage of the former."—*Executive Records of the Council*, vol. 4, p. 413.

On the thirteenth the representatives, to ratify the action of the Governor and Council, and deeming it important that additional, particular instructions be given to Stucley and Southack, passed the order which constitutes this chapter, and sent it to the Council for concurrence, intending that they should go in the vessel to be provided by the Commissary-General. Being for a military purpose, solely, this order, which was covered, in part, by the previous order in Council, did not require a formal concurrence, since it would have had its full effect when the Governor, as commander-in-chief, should have complied with the request embodied in the second paragraph, which he did in directing the final expedition in July, if not before; and this action, and the record in their journals of this and the former order, sufficiently implied the assent of the Council. The name of the vessel impressed for this service has not been ascertained but it was probably commanded by "— Lathrop," who is mentioned in the letters of Wainwright and Stucley printed in the note to chapter 27, *post*, in which an account of subsequent proceedings relative to the expedition against Port Royal is given.

Chap. 17. This chapter is from council records, vol. VIII. p. 307. It has not been found in the archives.

The order in Council* for the payment of the allowances granted by this chapter was passed June 16, 1707, and the province treasurer's account† shows that they were paid.

Chap. 18. This chapter is from council records, vol. VIII., p. 307. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed June 16, 1707, and the province treasurer's account‡ shows that it was paid.

Chap. 19. This chapter is from council records, vol. VIII., p. 309. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed June 16, 1707, and the province treasurer's account‡ shows that it was paid.

Chap. 20. This chapter is from council records, vol. VIII., p. 308. It has not been found in the archives.

The order in Council§ for the payment of the allowance granted by this chapter was passed June 16, 1707.

The allowances granted by this chapter and by chapter 99, *post*, were paid by the province treasurer‡ in one sum.

Chap. 21. This chapter is from council records, vol. VIII., p. 308. It has not been found in the archives.

The order in Council§ for the payment of the allowance granted by this chapter was passed June 16, 1707, and the province treasurer's account|| shows that it was paid.

See resolves, 1706-7, chapter 50, and chapter 86 and note.

Chap. 22. This chapter is from archives, vol. 113, p. 412. It is recorded in council records, vol. VIII., p. 308.

The resolve which constitutes this chapter was passed upon the following representation and petition:—

"To his Excellency Joseph Dudley Esq^r Cap^t Gen^l & Govern^r in Cheife &c The Hon^{le} Council & Representatives in Gen^l Corte Assembled this 28 May 1707

Sauth Partridge Humbly proposeth Referring to the Setling of the Broken state of Derefeld & to their building up in a way of defence against the Comon Enemy it being absolutely Necessary both for the people & Church of Christ there & of absolute advantage to the whole Countie &c

Your Especiall care & allowance for y^e Encouridgem^t & strengthening the Rev^d m^r John Williams in the work of Christ there is greatly advantageous to us all for which my self in the behalf of us all do Return Our thankfulness to this Corte & Humbly spread before you The Necessitie of Rebuilding the Forts there so as to take in m^r Williams

* *Executive Records of the Council*, vol. 4, p. 415.

† *Mass. Archives*, vol. 123, p. 25.

‡ *Ibid.*, p. 26.

§ *Executive Records of the Council*, vol. 4, p. 416.

|| *Mass. Archives*, vol. 123, p. 27.

his house & Severall Other houses for Inhabitants that are & will repaire there for Enlargement & Strengthening the place we propose to Rebuild with 120 Rodd of fortification with square timber which may be done at 20^s † Rodd Now the people being in a broken Condition as afores^d most of their houses to Rebuild upon the former Ruins are incapacitated to Rebuild the Forts as afores^d Therefore I Humbly intreate this Cortes Consideration of the p^rmisses & to Grant such allowances as are Needfull for the performance of the afores^d which will much oblige y^e whole people & my self yor Unworthy Serv^t for yors Honors Ever to pray —

SAMLL PARTRIDGE." — *Mass.*

Archives, vol. 113, p. 412.

This paper was read in the House on the twelfth of June, on which day the resolve was passed and sent to the Council, for concurrence. On the thirteenth it was concurred in, and consented to by the Governor.

The order in Council* for the payment of the allowance granted by this chapter was passed June 16, 1707, and the province treasurer's account† shows that it was paid.

See resolves, 1706-7, chapter 126.

Chap. 23. This chapter is from council records, vol. VIII., p. 308. It is preserved in archives, vol. 71, p. 350.

The resolve which constitutes this chapter was based upon the following petition: —

"To his Excellency Joseph Dudley Esq^r Capt Gen^l & Govern^r in Cheife &c the Honor^l Counsell & Representatives in Gen^l Corte Assembled this 12 June 1707

These are Humbly to acquainte you That I have for this four Yeares Managed the taking care of & disposed to the forces posted in y^e Countie of West Hampshire — all the stores of Ammunition & provisions and Cloathing & kept the accounts thereof for all which I am Lyeable to answer & give account from tyme to tyme Having passed through my hands Many hundred pounds of the afores^d species & have had noe allowance for it, yet, alsoe the Military Service I am Engaged in to improve the whole Regiment of the Countie as Ocation often calls for it in these Tronblesome tymes w^{ch} is verry burthensome & Expensive to me for all which Charge & Service I have Recd Only 20th w^{ch} Sum was Yearly allowed for y^e Military Service afores^d in a tyme of Peace, That this Corte would be pleased to Consider it, & y^e Commissarys Service I have & am doing & Grant me such allowances as you Judge meete & of Right due to me Comparing the Service I have done with w^t is Usually allowed on y^e Like Service with w^{ch} I shall be well contented & am yor Humble Serv^t

SAMLL PARTRIDGE." — *Mass.*

Archives, vol. 71, p. 350.

This petition was read in the House on the thirteenth, when the resolve was passed and sent to the Council, for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

The order in Council* for the payment of the allowance granted by this chapter was passed June 16, 1707, and the province treasurer's account‡ shows that it was paid.

Chap. 24. This chapter is from archives, vol. 105, p. 53. It is recorded in council records, vol. VIII., p. 309.

The last agents for the colony before the appointment of Dudley as president of the Council for New England were chosen March 20, 1681-2. In the first vote William Stoughton and Joseph Dudley were elected "to goe & wayte on his majty, &c," § but Stoughton persisting in declining to serve, John Richards was chosen in his place. In compliance with the king's commands that the colony duly authorize agents to attend upon him "for the regulation of this his majties government" a new commission|| was issued to these agents, March 30, 1683, under the seal of the colony, "giving vnto them," in the words of the record, "joyntly, and not severally, . . . full power & authority accordingly on our behalfe for the regulation of anything wherein wee haue ignorantly or thorough mistake deviated from our charter; to accept of and consent vnto such proposalls & demands as may consist wth the majne ends of our predecessors in their removall hither our charter, and his majties government here settled according therevnto."

Besides this commission the agents received formal instructions and a letter to Sir Lionel Jenkins, one of the principal secretaries of state. These agents returned in October, and one of them, Dudley, was, in 1686, made president, by royal appointment, of the newly constituted Council for New England.

Towards the close of Andros's administration Increase Mather secretly left the province and fled to England, as narrated in the note to chapter 6 of the resolves of 1694-5. There he remained until May, 1692, when he returned with Sir William Phips, the first governor under the province charter. During the period of his stay in England he used his influence with the dissenting clergy, and such personages in authority as were favorably disposed towards New England, to procure the restoration of the privileges enjoyed by the colonists under the first charter.

The particulars of the choice of new agents after the overthrow of Andros are given in the note above referred to, including the addition of Oakes to the agents first chosen. By the following vote, preserved in the archives, it appears that there was some delay and contention in the choice of Oakes: —

"The Representatives not having Received an Answer to their former Bills referring to another Agent, & being made more sensible of the Countries desire of the same have therefore again voted the sending of Doctor Thomas Oakes as our Representative or Agent to

* Executive Records of the Council, vol. 4, p. 416.

† *Mass. Archives*, vol. 123, p. 28.

‡ *Ibid.*, p. 27.

§ *Mass. Colony Records*, vol. V., p. 346.

|| *Ibid.*, p. 336.

joine with the Worshipfull Elisha Cook, & others formerly chosen to manage our Affaires in England

15 Jan: 1689⁹⁰

JOHN BOWLES pr. order.

Consented by the Councill 18^o Jany 1689./.

ISA ADDINGTON Secy./." — *Mass. Archives*, vol. 33, p. 171.

The commission and instructions to the agents thus chosen were as follows:—

"The Governor & Council & Representatives of ye Colony of the Massachusetts Bay convened in Gener^l Court at Boston

To all to whome these presents shall come Greeting &c
(Ls) Know yee yt by ye Act of this Court we have nominated & appointed & by these presents do fully impower & authorize or hono^rd & trusty friends S^r Henry Ashhurst K^t & Baronett Elisha Cooke Esq^t M^r Increase Mather & M^r Thomas Oakes to be or Agents in England or so many of them as shall be resident there to wayt vpon their Maj^{ties} for ye negotiation & management of ye publick affaires of this Colony in the obtaining a full confirmation of or ancient Charter Rights & Privileges, And to endeavor ye same by all due & lawful wayes & means, And for what else may concerne vs there referring to ye persons now to be sent into England in observance of his Maj^{ties} Comands & of defence against any yt shall misrepresent us on acco^t of ye late Revolution or in any thing transacted by ye persons sustaining ye Govern^{mt} since yt time. Hereby Ratifying & confirming what or said Agents or so many of them as shall be there resident shall lawfully act & do by virtue of this Power according to such Instructions as they shall receive from ye Govern^r & Council with ye Representative body of this people. In Testimony whereof we have Ordered ye Common Seale of ye Massachusetts Colony to be herento affixed. Dated ye twenty fourth day of January Anno Domⁱ one thousand sixe hundred eighty & nine. And in ye first yeare of their Maj^{ties} Reigne./.

SIM⁷ BRADSTREET Govern^r

By order ISA ADDINGTON Secy." — *Ibid.*, p. 180.

"Instructions for ye Agents for ye Colonie of ye Massachusetts Bay in New England—

1. You are to waite upon their Maj^{ties} & humbly present or Addresses sent with you
2. You are to lay before his Maj^{ty} ye intollerable Inconvenience y^e this Colony was exposed to by means of ye Arbitrariness & Illegallity of ye late Comissions & by reason of ill Instrum^{ts} in whose hands principally ye Execution of them lay—
3. The utter Inconsistence yt y^e is between ye very being of this Plantation & ye mischievous aimes & praetises of ye French King—
4. The just & amazing fears this people were surprised with upon ye notice they had of ye late King James's being in France, least S^r Edm^d Andros (whose Govern^r & Confident he was) should betray them into ye power of ye French King, other circumstances concurring to strengthen those feares—
5. The despair this people were brought to, when instead of defending them in their just Rights & Properties, those in ye late Govern^{mt} sought to turne them out of their Lands & possessions, upon which under God they had their dependance for a necessary livelyhood—
6. The probability there is yt ye present warr with ye Natives was caused by ye Injury done to Mons^r Castiene, who is in affinity with them & has a great influence upon them—
7. That you sollicite in Parliam^t or else where as may be fit ye Confirmation of or Ancient Charter & all its Rights & Priviledges Civil & Sacred.
8. You are to take care yt what money has been advanced in London by M^r Stephen Mason or others for ye use of ye Massachusetts be Speedily paid them with due thanks for their real service done to this Colonie by their meanes.
9. You are to sollicite yt ye liberty of Coynage may be allowed vs.
Item To lay before his Maj^{ty} ye case of Pemaquid.
10. That you lay before his Maj^{ty} ye great inconvenience we are under by ye ill Neighbourhood of ye French in Canada & Acadie & places adjacent, & pray his favor & direction in yt matter.
11. If there be opportunity you are to endeavor ye obtaining of such Priviledges as may be of further benefit to this Colony—

Boston ye 24th Jany 1689

SIMON BRADSTREET Govern^r in ye

name of ye Gen^l Court

By order ISAAC ADDINGTON Secy./." — *Ibid.*, p. 181.

The same committee that prepared the foregoing commission and instructions were ordered to prepare letters to be forwarded to persons of influence in England, as follows:—

"Wait Whintrop Elisha Hutchison Sam^l Sewall & Isack Addington Esq^{rs} Are Nominated & Requested to draw vp letters to be sent to ye Secretary of State S^r Henry Ashurst m^r Mather & Such others as may be Advisable for our publick concerns to be sent by the first Opportunity

Boston 13 Decemb^r 1689: past by the Magistrates

JA RUSSELL pr order

Consented to by the Representatives *Nemine contradicente*

JOHN BOWLES pr order." — *Ibid.*, p. 112.

On the sixteenth of December, 1689, it was voted "That the Tresnrer forthwith take Care to provide bills of Exchange for A Thousand Pounds Sterl payable to or Agents in England towards the Defraying the publique Charges of this Colony that are & may arise there."*

This was followed by a further order, February 6, 1689-90, "that If the Agents for this Colony in England shall have Occasion for more mony: there than what is now advanced and Ordered for their Supplys that they take up what shalbe necessary for the Service

of this Colony upon the publick Credit not exceeding the Sume of One Thousand pounds and draw Bills upon the Treasurer for the same." *

On the twenty-third of October, 1691, still further provision was made for supplying the agents with funds as follows:—

"Whereas this Court are given to Understand that y^e Agents of this Colony resident in England stand in Need of Supply's of Money for the Support of their publick Negotiation there, and Considering the difficulties, and hazzard of providing, and remitting of Suitable Effects unto them for that Occasion; Major John Richards, Major Elisha Hutchinson, Capt Samuel Sewall, and M^r John Foster are Appointed, and empowered a Committee to Endeavour the procuring of them Credit to the Value of Eight hundred or a Thousand pounds sterling, to be employed for the Obtaining of a Good Settlement of Government for this Colony, According as this Court have Addressed their Majesties the money's so Advanced to be reimbursed with Allowance for Exchange." — *Council Records*, vol. VI., p. 200.

These grants, however, were for the necessary expenses of the agency on the account of the public, and were not intended for, nor applied to, compensating the agents for their services or reimbursing them their private expenditures.

The first instalment of compensation to these agents was made November 4, 1690, by which Mather received one hundred pounds, and Cooke and Oakes fifty pounds † each.

On the nineteenth of June, 1691, Cooke and Oakes each received from the province an additional grant of one hundred pounds, and Wiswall the sum of sixty pounds. ‡

These were the last grants made to the agents down to the date of the present chapter.

The following is Oakes's memorial to the General Court:—

"To his Excellency Joseph Dudley Esq^r Captain Generl & Govern^r in chiefe in & over her majesties Province of y^e Massachusetts Bay in New-England &c. And The Honourable y^e council & house of Representatives now sitting in Boston in Generl court.

The memoriall of Thomas Oakes of Boston

Most humbly Sheweth,

That being chosen, & appointed by y^e Govern^r Council, And Representatives of this colony, to be an Agent for y^m in y^e court of England; in obedience to that command, I left a good employ^t & a numerous family, & imbarked for England on y^e tenth day of february in y^e year 1689, & being arrived there, did with all fidelity endeavour to discharge y^e trust reposed in me, subsisting my self there at my own charge, for above 2 years & returned not home, untill y^e 23^d day of october in y^e yeare 1692.

And that I have never received any more, by way of compensation, than 150 pounds, which was not half sufficient to maintaine my family in my absence: so that my expences, loss of time, & business considered, my attending y^t service, hath been to my damage (as I humbly conceive) at least A Thousand pounds.

Wherefore The humble memorialist prays y^{or} Excellency & honours to take y^e premisses into y^{or} serious consideration and y^t you will please to grant such an Allowance as to y^{or} wisdom, & Justice shall seem meet.

And he shall ever pray &c.

THOMAS OAKES." — *Mass.*

Archives, vol. 105, p. 52.

This memorial was read, first, in the House, in the fourth session of the preceeding year (March 21, 1706-7). On the next day it was again read and the following resolve was passed thereon and sent to the Council for concurrence:—

"Resolved That the sum of Three hundred & fifty Pounds, be allowed & Paid out of the publick Treasury to M^r Thomas Oakes the memorialist, which with what he has already received is in full for the service above expressed." — *Ibid.*

No action appears to have been taken upon this matter by the Council in that session; but in the fifth session, it having been ordered by the House, April 17, 1707, that the above resolve "be revived and sent up for concurrence," it was sent to the Council, where it was "read and voted to be further advised and inquired into." Here the matter seems to have rested until the present session, when, the Council having voted not to concur in the above resolve, the House on the thirteenth of June passed and sent up the resolve which constitutes this chapter. In this the Council immediately concurred and it was consented to by the Governor.

The order in Council § for the payment of the allowance granted by this chapter was passed June 16, 1707, and the province treasurer's account || shows that it was paid.

Chap. 25. This chapter is from archives, vol. 71, p. 356. It is recorded in council records, vol. VIII., p. 309.

The former purchase of gunpowder under the resolves of 1706-7, chapter 142, added to the amount then on hand, appears to have been sufficient to make up eighty-seven barrels. This left thirteen barrels to be purchased to complete the one hundred barrels called for by that chapter; but evidently more was necessary to supply the second expedition to Nova Scotia; and, therefore, the present chapter was passed, in which the House of Representatives joined with the Council in giving the Governor, with the advice and consent of the Council, full authority to furnish whatever ammunition the needs of the army and fleet required. It would seem by the vote of advice of the Council, of January 20, 1707-8,

* *Mass. Archives*, vol. 35, p. 222.

† *Resolves*, 1694-5, chapter 6, note.

‡ *Ibid.*, chapters 7 and 8. On the third of March following, fifty guineas were granted by the government of New Plymouth to Sir Henry Ashurst, and twenty-five pounds, each, to Mather and Wiswall for their services as agents for that jurisdiction. *Ibid.*, chapter 8, note.

§ *Executive Records of the Council*, vol. 4, p. 416.

|| *Mass. Archives*, vol. 123, p. 26.

that neither the supply procured by virtue of the authority given in this chapter nor in chapter 32, *post* (both evidently intended to enlarge the authority given in chapter 142 of the resolves of 1706-7), equalled the amount which the Legislature had authorized to be procured, although that amount seems not to have been limited to a stated number of barrels.

For the action taken by the Governor and Council in respect to the taking up and fitting out the *Ruth* Frigate, under the authority of the order which constitutes this chapter, and for subsequent proceedings relating to the expedition to Nova Scotia, see the note to chapter 27, *post*.

Chap. 26. This chapter is from council records, vol. VIII., p. 309. It has not been found in the archives.

The statute requiring the equipment of moccasins and snow-shoes, for which were made the allowances granted in this chapter and chapter 33 of the resolves of 1705-6, was chapter 4 of the acts of 1704-5. Although the act required these articles of equipment to be procured by the tenth of November of that year, the captain or first commissioned officer of each enlisted company was, by the fourth section, required to see, by semi-annual inspections, that they were kept in good repair and fit for the service; and for this purpose the act was to continue in force during the war. By the third section, upon the certificate of the inspecting officer, to the Commissary-General, of the sufficiency of the equipment of any soldier, the soldier was to be allowed three shillings out of the next poll tax, to be paid to him by the province treasurer through the respective constables. The present chapter was passed to cure the irregularity in the return of certain lists which, it seems, were either sent in to the Commissary-General, or by him laid before the Council, after the time prescribed by the act.

The following entry in the province treasurer's account from May 29, 1707, to May 26, 1708, shows, apparently, the amount of which he discharged himself on account of the allowances made according to this chapter:—

“Paid by discount to Several Constables of Several Townes for. 195.

pair of Snow Shoes that ^{ye} inhabitants of s^d Townes had Supplied
themselves with, was Allowed out of their Poll Tax pursuant to the

Resolves of the General Assembly 48,, 15,, —.”

—*Mass. Archives*, vol. 123, p. 23.

Chap. 27. This chapter is from archives, vol. 71, p. 385. It is recorded in council records, vol. VIII., p. 312.

In the note to chapter 16, *ante*, the narrative of the expedition to Nova Scotia is continued down to the time of the vote for sending an express with instructions to Stuclely and Southack after Dudley had received despatches communicating the result of the council of war held at Port Royal on the thirty-first of May. This result was not unanimous, and in the minority were some leaders of experience who were preëminent for enterprise and for sound judgment. Their opposition was so earnestly pressed, and the ruinous consequences to the reputation of the Commander-in-Chief that would ensue upon a premature abandonment of the main purpose of the expedition were so strongly represented to him that he yielded, and consented to the calling of another council of war, which was held on the third of June. By this council the decision of the former council was reversed; and it was deliberately resolved that the forces should stay, and, with the coöperation of the artillery, renew their attempts upon the fort. This resolution, however, was reconsidered on the evening of the same day, when, to the surprise and mortification of the most courageous and sanguine soldiers of all ranks, it was again decided to reëmbark and depart after they should have burned the houses of the enemy at Port Royal. This decision was final, and, as soon as it was announced, on the fourth, a panic seems to have possessed the soldiers, who made for the boats and transports in great haste and disorder. On the fifth the army seems to have wholly embarked* and “the fleet sailed away, having sent a packet to the Governor.”† On the seventh a council of war was convened which agreed in resolving to abandon the intended descent upon Menis and Chignecto.‡ This resolution, which is inexplicable except upon the supposition that, through some misunderstanding, the transports had scattered, leaving with the war vessels a force wholly inadequate to the undertaking, was formed too late to be communicated in the second despatch which was already on its way to Boston.

Thus ignominiously, without even summoning the garrison to surrender, ended this essay to drive the French from their stronghold in Acadia.§

* Hutchelosen says they had embarked by the sixth or seventh. In this he accepts Charlevoix's statement, but Barnard says, “on the fifth the whole army embarked.” He probably intended only that on the fifth the embarkation was completed, since it was expressly declared by the pilot of the Rhode Island transport that they sailed from Port Royal on Wednesday, the fourth.

† Barnard's narrative. See foot-note on p. 689, *ante*.

‡ It would seem that the abandonment of this feature of the campaign was left uncertain at the time of the sailing of the fleet and was not wholly given up until the decision of the council of war of the seventh of June.

§ The following list of casualties seems to comprise all those who were killed and captured by the enemy during this expedition, as well as those who were incapacitated for immediate further service by illness contracted either at Port Royal or in their voyage to or stay at Casco?—

“A List of persons sick & unserviceable

Capt ⁿ Cook,	Joel Daniel	Hen ^y Stevens	Capt ⁿ Nichols's men
Capt ⁿ Holmes	Obed ^t Shalloe	Jos ^e Benjamin	Kill ^d
Nath ^l Duke	Eben ^t Caleb	Tho ^s Williams	John Comey, Cambr.
Josh ^a Whiting	Jos ^e Sussaman	Alex ^r Canada	Kendal, Wolurn
Sim ^o Merfield	Tho ^s Nichols	John Broklebank	Weson, Redding
James Warren	Gershom Manchester	Commissary Whitmore	Captiv ^d
Davi ^d Perry	Saml James		Benj ^t Muzzy, Cambr.
Daniel Remondel	Blaze Venton		James Hovey, Malden.”— <i>Mass.</i>

Archives, vol. 71, p. 369.

By the French accounts it seems that at the time of the arrival of the fleet there had been a considerable breach in one of the walls of the fort, and this, they affirm, de Subercase at once set about repairing, so that by the time the English had seriously resolved to attempt to take or demolish the fortification the walls were substantially made whole. There is little doubt that such a breach existed and that the English were disappointed as much in finding it repaired as because the number of deserters from the enemy was less than had been predicted by the few who had already come into the English lines. These considerations were sufficient in the minds of the majority of the council of war to justify the abandonment of the attempt upon the fort, although by that time, according to Hutchinson, a general assault had been determined upon.*

The disgraceful conduct of the responsible leaders of the expedition, however, was offset in some degree by the daring and efficiency of others in command.

On the night before the first council was held the approach of the English to the fort in the face of a brisk cannonade had been so close as to seriously alarm the garrison and its commander. In the skirmish between March's men and de Subercase, described in chapter 16, *ante*, the latter had his horse shot under him, and the killing of one of his men and the wounding of another is admitted by Charlevoix, who habitually magnified the disasters of the English, and minimized the reverses of the French. After the reconsideration of the first resolution of the council of war an artillery fire appears to have been kept up from the fort while, according to some accounts, the English were opening intrenchments, which they steadily continued to extend towards the enemy's works.

The contemporary English accounts agree in attributing to Colonel Hilton and Major Wanton the burning of the buildings, which Jeffries, in his letter hereinafter printed, describes as "the grand magazine, the church, houses," etc., "close by the north bastion of the fort;"† in which action, to use Jeffries's expression, they boldly threatened "the enemy to his nose."

Though extremely perplexing from their vagueness and apparent contradiction, these accounts warrant the conclusion that this brilliant exploit by Hilton and Wanton was the last, as it was the most daring, demonstration of the campaign, and that it immediately preceded the withdrawal of the forces.

Charlevoix, while admitting that the English, when they reembarked, "had burnt all the houses below the fort, and some of those above," states that when, in their first advance, they had approached the fort to within a short distance, and prepared to attack it, de Subercase burned down several of the buildings which he could not guard and in which the besiegers might have sheltered themselves, because, as he states, "the garrison was insufficient to defend both the fort and the neighboring houses." It was the smoke from this earlier conflagration, doubtless, that Hill saw when he was starting on his voyage to Boston, with despatches, as mentioned in the note to chapter 16, *ante*, and which led the council to surmise that probably it was the work of the English, who, they conjectured, were "burning of the houses upon their removing."

On his return voyage to the fleet, with the Governor's letters mentioned in the note to chapter 16, *ante*, Hill seems to have taken a more direct course than the coast line, and thus to have failed to meet the transports, which, though scattered, kept nearer the shore. While thus standing off the coast, however, he did not escape the vigilance of Captain Southack in the Province Galley, who, being further out at sea than the rest of the fleet, discovered him in the night, and, giving chase, overtook him at two o'clock in the morning of the thirtieth of June, and, learning his errand, "carried him in to the fleet."

Upon receipt, by the several persons addressed, of the letters brought by Hill, a council of war was held on the Province Galley, at which it was resolved that the fleet proceed to Casco Bay or Piscataqua to await the orders and directions of the Governor, to whom, in the mean time, Colonel Redknap, Lieutenant-Colonel Appleton and Captain Holmes were deputed to give a particular account of the expedition, and to bring back messages from the Governor. Letters to Dudley were sent in charge of this committee, probably, by all the officers to whom he had written. Of these no letter from Stucley has been found, but the letters from March and Southack are preserved in the state archives, together with a letter from the Secretary of War, and another, anonymous, letter of the same date, endorsed "A letter from a Gentleman in the Army to his Friend in Boston." The letter from March was as follows:—

"Province Galley. 3 Leagues western of Mantenicens
the. 13: of June. 1707.

May it please your Excellency.

This Day at this place I received your Excellency's Letters we being on our Return from port Royall, the reason whereof The Gentlemen that wait on your Excellency will acquaint you with, And the reason of not proceeding to menis Scanecto &c: by a Council resolved the seventh Instant the minutes whereof Mr Dudley sends,

S:

By reason of foggy Weather and Contrary winds we have parted our fleet, One Briganteen and six sloops having Eight Comp^{as} being absent from y^e rest of our fleet, in this place, who your Excellency will return with such Reinforcements as shall be necessary, which the Gentlemen will fully Informe your Excellency off. to whome I must refer your Excellency in all matters relating to our proceedings hetherto and to come, By a Council of war assembled this Day was resolved that the fleet get into Casco, or piscataqua to wait your Orders and Directions, And I must pray your Excellency's favour in y^e reinforcement to

There appear to have been others, wounded, as, for instance, Lieutenant Samuel Sprague (see chapter 40, *post*), one other injured by accident, and some sick, who had recovered before this list was made up, since a bill in the state archives by Doctor Zabdiel Boylston, for medical attendance upon "Captains Holmes and Gridley," is dated the twenty-third of July. See chapter 58, *post*, and note.

* Hutchinson also says that the English had made some breaches in the wall, but nothing has been found elsewhere to support this statement.

† Barnard.

send some of those Brave Officers, who are Desireous of our return to y^e Camp, that they may justly and Reasonably judge of; and assist in all affairs

I also pray your Excellency not to misconstrue Our Actions By the various reports spread abroad by some, Ignorant and ill affected persons who make it their Buissness to Lessen every action that Do's not agree with their opinions; I humbly Refer to Colo Rednap, Left. Colo Appleton and Captain Holmes who are appointed to wait on your Exc^{ly} and am heartily willing to return whether soever Commanded, And with Due Respect

I Remaine your most humble and very obedient Servant,

JOHN MARCH

My humble Service and Dnty with the rest of the General officers to the Honorable y^e Council and y^e House of Representatives.

By order of the Commander in Chief

W DUDLEY." — *Mass.*

Archives, vol. 71, p. 357.

Captain Southack's letter was as follows:—

"On board Her Maj^{ty} ship Province Galley June the 13 1707 att 4 Clock After Noon

May itt Pleass Yo^r Excellency

Sr/ I haue Recievd Yo^r Excellency Letter by Mr Hill at 2 Clock This Morning by Chance the flett being in with the shore & I Off att sea Giue Chass to him in the Night & when I Came vp with him I found itt to be the Packett Boat then I Carred him in to the flett

Sr/ may I Not Line one Menett If Ener I should be Disobedent to Yo^r Excellency Orders or Not Prove my selfe Like a True Englishman and a Louer of my Cuntrey

Sr the Genman that wats on Yo^r Excellency from the flett will Giue a full Acco^t: of Our Leatt Persedings

Sr/ Y^r Excellency Most Humble Servant

CYPRIAN SOUTHACK." — *Ibid.*,

p. 353.

The minutes of the council of war held on the seventh, which March mentioned as being sent by the Secretary of War, have not been found, but the following is the Secretary's letter to his father:—

"Province Galley. 13. June. 1707. —

Honour'd Sr.

By Colo Marchs Letters and the Inclosed your Excellency will be very well acquainted with our actions since our Letters, which have been as strange as sudden, This Day was Read Colo Marchs Letters received and it was Resolved to return thanks for them, and therefore the Gentlemen are Dispatched to your Excellency, Hill acquaints us of the various Constructions made on our proceedings which have been very Difficult and Dangerous, our men marching seven mile a most hideous way for every mouthfull of provisions as well as stores of war for which use we Constantly kept one hundred men and before, Colo Appletons men were joined we had no more than the Garrison which by four Diserters since our Letters consists of six hundred men with six months provisions, notwithstanding these Difficultys it was resolved to Land our mortars on the point opposite to the fort over the main river, by a Council of war, which Resolve was very strangely Quashed by a petition signed within two hours after the Resolve and that very night they Burned all the houses upon the point and By Breack of Day came Down to their vessells in order to proceed to Menis &c, which was strangely carried on in the negative by majority of voices and chiefly pinnd on that article of Colo. Marchs Instructions: ss: Notwithstanding the partialiarity of your Instructions, I Refer you &c: *

The three Heroics for Breacking ground some time after Begg'd pardon and Changed their minds

We are willing and Ready to Return to y^e Camp with a good Reinforcement notwithstanding all our Difficultys and their thirty two pounders which we were somewhat used to at last, we had one man killed in our Ravage up the river and the man wounded of Otis Company Dead since our Passage for want of good Discipline and Order our Officers and men were soon Discouraged altho we had Deserters trying every Day to escape to our Camp and two poor men Endeavouring were executed in our sight, And not having our Mortars Attillery &c to Defend us and offend the Enemy† caused such speed and hast in our Retreat which was performed without the Least Damage, after my most Humble Duty, I Remaine your most Obedient

And Dutifull son & servt

W DUDLEY. —

Colo March sends one Deserter. [*i. e.*, from the enemy] by this opportunity." — *Ibid.*, p. 354.

The anonymous letter † above referred to was in a different vein and probably sent by another hand. The author, undoubtedly, was Arthur Jeffries, who had been commissary under Colonel March in 1704, and was proposed by Dudley as a messenger to Vandeuil ‡ before the appointment of Livingston. He appears to have been a person of great courage and energy. He was taken in the brigantine commanded by Eleazar Moses of Salem, in

* The rest of this article may be inferred from a similar article in the instructions to Colonel Church, May, 1704, printed in the note to chapter 100 of the resolves of 1703-4, p. 331, *ante*.

† *Sic*.

‡ There are two versions of this letter extant. One of these, apparently the original, which is followed here, is in the state archives, and the other is printed in Winthrop Papers, part V., p. 230, from a manuscript copy sent by John Winthrop to his uncle Fitz-John Winthrop, governor of Connecticut. They are not precisely alike, but the differences are slight, except in the date — that in the Winthrop copy being clearly wrong.

§ Private act, number nineteen.

June, 1705, and carried captive to Placentia, and was among the prisoners sent back by de Subercase, that arrived at Ogunquit in December, 1706. There are reasons for suspecting that "his friend," to whom this letter was addressed, was Cotton Mather. It ran as follows:—

"Between M^r Desert & Montineens at Sea 13th June 1707

My good Friend

S^r I hope my wife hath waited on you & Let you know my Reasons for being silent abt or foolish proceedings for fear of pounzling. To Deal short & plain wth you (*inter nos*) O^r men were basely Landed at y^e first, Y^e Devl I doubt not was y^e Adviser of it, where else y^e blame lies I know not. I told y^m enuff of it, but I was rejected & no notice taken of w^t I said, thō since they have all seen their err^r & repent of it too late; 'Twas done wth out any consideration, for they landed 7 or 8 mile off in a base way that kill'd & harrased of men & made y^m ly out all night on both sides of y^e river in y^e woods, so y^e y^e whole Country being alarm'd, y^e next Tyde of Ebb brought y^m all into y^e fort. whereas of men might have been landed wthin 3 miles of y^e fort safer then where they were, & then would have certainly cutt off y^e communication & absolutely have prevented y^e inhabitants joyning the fort & we might have had most of them & their goods, whereas now we have nothing.

The next miscarriage hereby was wⁿ of men had y^t warm skirmish in the hill, & Drave the Enemy; For want of being well advised of the Ground miss'd cutting y^e enemy all off, & being tired wth their filthy march were not able to pursue y^e advantage by following y^e enemy into y^e fort w^h they might easily have done.

The other great matter was promises not p^rformed, for o^r Sea Captains promised o^r Generall y^t he sh^d not wait for his Artillery, but y^t as soon as he had gott y^e ground he sh^d have it. But y^e Devl still was doing his work & by too long hesitations & pretentions none came, nor noue we had, w^e did discourage o^r men. Coll^d Rednap being ashore mark'd out his ground & had begun to make some provision to raise his Batteries &c But placed as difficultly as possible might be, His Fretfull, spitefull Temper all y^e time he was ashore sufficiently shewed his dislike to undertake w^t he was sent about. I have heard him urge many of his Reasons, Y^e Cheifest Y^t it was not for him to venture all his Credit & reputation wth such undisciplined & ungovernable men & unconstant officers.

At the Fatall Council of Warr he laid down y^e Reasons & Improbability of y^e enterprise & caused a Vote to pass not to break ground, & so be gone abt or buisness like Fools: We is y^t we was sent home.

Myself & some others stormed & shew'd o^r dislike to such rash, inconsiderate proceedings, & shewed other ground where o^r Artillery might be landed in y^e face of o^r enemies wth out danger, & annoy y^m fully as much as on y^e point where we lay. On this another Council was held & 'Twas resolved to attach* y^e fort & accordingly y^e ground was viewed & approved of by all, except Rednap, M^r Barnsdale, Boon, James &c came up to us & offered their service to play o^r artillery in case Rednap refused it. Wentworth boldly offered to land it & so did most of y^e Transport masters & all cheerfully agreed in this Resolution.

But at night a Maggot bitt some people & a Council held & all revoked w^t they had done & adhered to Rednaps Council of y^e 31st of May & gave it y^e Generall under their hands. This I write to y^e shame of Maj^r Walton, Capt Holmes & Frothingham, thō they be all my very good Friends, but I can't forbear speaking truth.—

Now I must look back & tell you, That y^t day y^e fatall council was held y^e Fort fired many great guns & Bombs severall whereof lighted near o^r Lodgings w^e caused Coll^d Rednap & M^r Secretary Dudley† to scour aboard y^e ships faster y^m a good pace. But y^e rest of the feild officers remained till y^e next morning early w^h they all removed their Lodgings.—

But a more noble passage worthy all mens notice I must tell you y^t y^e night before o^r Contradictory Council of a Resolution taken by Coll^s Hilton, Wanton & others to burn y^e Grand Magazine, Church, houses &c near y^e fort, w^e was done wth Vigilance, care & prudence boldly threatning y^e enemy to his nose, firing on their Ramparts into y^r houses in y^e Fort.

Never did men in y^e world do more bravely nor boldier & would positively have gone into y^e fort had o^r officers had y^e skill & conduct to have headed & led y^m on But y^t spirit was Wanting.

I must boldly say o^r men will fight if they be well carryed on, for I am sure o^r officers had more difficulty to bring y^m off y^m to carry y^m on.

In fine when all was concluded to sett fire to all & be gone you might have seen y^e Confusion of Babel: & Run off he y^t could Run fastest In short I think o^r Generall was both Boy & Fool-ridden.

Now I must break off abruptly a Council held this day, just now, hath resolved to send a F— & a K— & o^r Brick & Lime Kiln friend home to tell a base & I doubt a false story to save y^r own Bacon.

Take this for a Conclusion that y^e 3 parties now sent home are no wayes qualified for y^e publiq; good & will rather hinder then promote w^t is designed & intended for y^e publiq; good. You & y^r friends may bestirr y^oselves to prevent an unseen mischeivous Evill. Their Designes are Precarious, Ambiguous mentall selfish, & really I doubt Devillish—

Val^e.—*Ibid.*,

p. 354.

To provide against a possible, pressing, unforeseen emergency, the Legislature, on the same day, in view of its approaching recess, gave the Governor authority, by and with the advice and consent of the Council, to send reinforcements, provisions and ammunition, as shown in chapter 25, *ante*. During the night of the fourteenth, however, the Governor received intelligence which interrupted the course of these preparations. This was

* Sic.

† The words in Italics are cancelled in the original, on file.

that there had arrived at Piscataqua River, on the evening of the thirteenth, the transport sloop Sarah and Hannah, under command of Captain Winkley, bringing Captain Chesley and Lieutenant Tibbetts and the soldiers of their company; and that the men had dispersed without reporting to the local authorities. On the fifteenth the pilot of the transport which had conveyed to Port Royal the Rhode Island auxiliaries, came in at Boston and reported that, on the thirteenth, he had left that vessel off Cape Cod, standing for Rhode Island, with Colonel Wanton and part of his company on board—they having “sailed from Port Royal in Company with the Fleet on Wednesday the fourth current bound to the Westward.”* Both of these despatches were communicated by Dudley to the Council on the fifteenth—the former in the forenoon, when he sent orders to his council of New Hampshire to cause Chesley “to be put under a Guard, and the Company to be rallied again, and put under another Officer to attend further orders,” and the latter in the afternoon, when he gave further orders, as follows:—

“His Excellency express’d Orders to the Gentlemen of her Majty’s Council at Piscataqua, and to the Chief Military Commission Officers within the County of Essex that if any of the fleet from Nova Scotia sh^d arrive in the several parts aforesaid to cause them to Anchor and stay there, and to publish to the Officers & Soldiers on board, his Excellency’s Order, strictly forbidding them to come off, or to scatter, until further order on pain of Death.” — *Executive Records of the Council, vol. 4, p. 414.*

These orders of the Governor were promptly obeyed in New Hampshire. Chesley, by command of the council, had already appeared before them as early as six o’clock on the morning of the sixteenth, and apologized for his return by averring that there were “General Orders given at Port Royal for every person to make the best of their way home;” and for his failing to report, by stating that, upon his arrival at Portsmouth, “he went to Mr. Penhallow’s house, one of the Council, to acquaint him of his arrival, but he was not at home; soe went to no other Gentlemans house; he did not know he had offended in it; but he was now sorry concerning it:—he said he had dispersed his men upon their promise to return at the beat of a Drum, and that he would call them together with all expedition.”† The council thereupon had ordered that the sloop “be kept in her present posture till further order:—And that Mr. Secretary Story write to Mr. Abraham Lewis the Pilot, and Mr. Thomas Webster sub-Commissary, forthwith to repair on Board the said Sloop, to give their attendance there in their posts till further order.”‡

On the sixteenth tidings were received, at his home in Salem Village, of the arrival of Captain Putnam at Marblehead; and by the following day the whole country was agitated with contentions about the army, some defending and others denouncing it for the result of the expedition. Meanwhile tidings of fresh arrivals from the fleet were coming in. Among the new arrivals was Major Walton, who, being summoned, appeared before the council of New Hampshire, on the seventeenth, after the receipt of the Governor’s letter of the fifteenth, and explained his return by stating that he was sent by Colonel March from Casco to carry a packet of letters express to the Governor, “and to wait his Excellency’s answer and so to return to Casco again.” A large sloop which was seen in Portsmouth Harbor, on the fourteenth, was reported by Walton and Elliot as probably the Rhode Island transport; and it was said that “Perkins with his company” was “in a sloop at anchor at New Castle.” Mr. Secretary Story was accordingly ordered by the council to issue his warrant, directed to Theodore Atkinson, Esquire, to enforce the Governor’s orders. On the same day Governor Cranston wrote to Dudley, from Newport, announcing the arrival of Lieutenant-Colonel Wanton from Port Royal, “with the unwelcome news of their leaving the fort there in the enemy’s hands or possession,” and with the further information that “he parted with the rest of the fleet some distance to the northward of Cape Ann,” which he thought had arrived or would arrive before his letter.

The letter concludes as follows:—

“our people are much dissatisfied with there Returning home without affecting what they went about, I cannot understand but that Lt Collonel. Wanton acted the part of a courageous and noble Capt worthy of the Comission bestowed vpon him by your Excellency, and tells me he had rather have sacrificed his Life then have Returned without taking the fort—

he is very sparing of casting any Reflections vpon any persons, but I percieve by him he concludes other methods might have been taken then was, and that they might have with Ease and safety got there Cannon and morters neare enough to have battered & burn’d the fort I also percieve by him that they were very vnteady and fickle in there Councils—

He Returnes yor Excellency his Humble Thanks for yor favours to him and begs yor Pardon that he did not Touch at Boston (concluding it would have been a hindrance to him and have Augmented the Charge of the Colony:) he not being Capable of doing her Majtye and your Excellency any further service—

he put about 20 of our men on board one of your sloops, who, if. (or when) arived I shall be very thankfull to your Excellency if you will order Capt Cooke or Capt Church. to see them conveyed to y^e Island and that they do not Imbezell or pawne there Armes &c.

I am yor Excellencys

most Humble & obliged Serv^t

SAM^{LL} CRANSTON.” — *Mass.*

Archives, vol. 2, p. 158.

The letters which “Lathrop” conveyed to Casco reached their destination by the seventeenth, on the morning of which day the three messengers deputed from the fleet on the thirteenth arrived at Boston bringing with them the letters written on that day by the officers on board the Province Galley. They landed at Scarlet’s Wharf, where they re-

* *Executive Records of the Council, vol. 4, p. 414.*

† *Provincial Papers of New Hampshire, vol. II., p. 505.*

‡ This may have been the vessel upon which Wanton put twenty of his men as stated in Governor Cranston’s letter of the seventeenth.

ceived, from a mob of women, a greeting not of a kind to flatter their vanity or to render less disagreeable the unpleasant duty they had to perform. The following extract from an undated letter written by John Winthrop to his uncle, the Governor of Connecticut, gives a graphic picture of their reception, and contains other interesting particulars concerning the condition of the army and the state of public feeling at that time:—

"they were met by severall women, who saluted y^m after this manner: 'Welcome, souldiers!' & presented y^m a great wooden sword, & said wth all 'Pie, for shame! pull off those iron spitts w^{ch} hang by y^or sides; for wooden ones is all y^e fashion now.'"^{*} . . . "a drove of children & serv^{ts} wth wooden swords in their hands, following y^m wth y^e repeated salutations 'Port-Royal! Port-Royal!' When they came to the drawbridge, it was drawne up, where y^e mob greeted y^m wth many huzza's of 'Port-Royal! Port-Royal!' and so followed y^m into y^e Towne-house, wth wooden daggers & still shouting 'Port-Royal! Port-Royal!' I think by y^e afternoon there was some hundreds of boys gathered together into a company, & y^e people about had furnisht almost all of y^m wth wooden swords or old stocks of guns, a drum, & a red peice of cloth fastned upon a stick for an ensign, and in this equipage they marcht through y^e towne, hallowing 'Port-Royal! Port-Royal!' and waited for y^e returne of y^e men from Roxberry, who were gon to give the Gov^t a visitt. By & by they return'd, & as soone as they enterd y^e towne, y^e regiment of boys wth their wooden armor saluted them & follow'd them back again to y^e Town-house shouting. Never did poor men receive so many affronts from an insulting rabble. As they began y^e day, so they concluded it, wth marching round & round y^e town, brandishing their wooden weapons, & wth a little drum they had got, went beating & shouting 'Port-Royal! Port-Royal!' They had better have been whipt than ever have come to towne to be so greeted. . . . If I can, shall get & send by y^e post a copy of Commissary Jeffries's letter, w^{ch} he wrot from y^e army to a friend of his in towne, relating y^e managem^t of y^e Port-Royall affair. . . . Yesterday, of kinsman Maj^r Winthrop was ordered down to Nantasket to still & quiet a mutiny amongst y^e forces. Wⁿ he came there, he found above an hundred of y^e best men, y^t belonged to Plymouth Collony, was discontented & dissatisfied & had quitted their posts & was gon home; y^e rest being in y^e same posture & motion, but were brought up to y^e castle & confin'd. Here is a generall discontent & dissatisfaction thro^u y^e whole Province. Y^e officers & souldiers seem unwilling to returne to y^e enemies country, & it is thought y^t some of y^m y^t dissented may be hang'd. I have this to add, that y^e Engineer [Redknap] told me (under y^e rose) y^e other day, y^t they had done as much as their orders allow'd y^m I also heard one of y^e French deputies [deserters?] from Port-Royall say they might have taken y^e fort, had they but continued there. He said that they had but two mortars in y^e fort, & one of y^m split, & y^t Supercass y^e French Gov^t & Battus [Baptiste?] said they had but so many days provision in y^e fort & must surrender if they had stay'd; & y^t when the English first landed there was a breach in y^e fort walls, w^{ch} they mended up whilst y^e English was consulting whether they should goe home or no." — *Winthrop Papers, part V., p. 388.*

On the same day a meeting[†] of the Council was called, when it was advised that the councillors "at Salem, Charlestown and parts near at hand be sent for to give their attendance in Council to morrow at two a Clock *post meridiem*, and their Advice referring to the Nova Scotia expedition, of so great importance."[‡]

On the eighteenth the Council, having met the messengers again, according to appointment, passed the following order:—

"Ordered. That the Officers that have late been upon the place give a full and perfect information of the state and strength of the Fort and Garrison there with other circumstances relating thereto, so far as they are capable to inform

And that the Officers attending give answer to the following Queries, viz:

Qu: 1st Whether they are of opinion, that it be practicable to attempt the takeing of it by storm, or in any other manner? And what that is?

2^{dly} Whether the forces late upon the ground, were not sufficient strength to Insult that Fort by Storm or Seige? If so—

3^{dly} What was wanting and further necessary in order thereto.

4^{thly} Whether the affair be disparaged, or bettered by drawing off the Forces?" —

Executive Records of the Council, vol. 4, p. 419.

On the next day the following report, drawn up by Redknap, was submitted to the Council:—

"Col^o Redknap &c^a Report.

May it please your Excellency and the Hon^{ble} Gent^{ys} of the Council.

The Fort of Port Royal is a Fortification of Four Bastions, a halfe moone, wth some other out works, which have been newly made, there is eighteen pieces of Cannon, mounted upon the Ramparts, twelve and eighteen pounders, the Ditch is between twenty four and thirty foot broad, seven foot deep, the Ramparts about eight foot height from the surface of the earth. There is a Battery of twelve pieces of Cannon, six twenty four pounders and six thirty six pounders, wth one Morter, but these do not add much to the strength of the Fort, they being designed onely to command all Vessels that pass up that River, it will be very difficult to bring them Guns upon the Ramparts, there are eight pieces four pounders, and eight Pateraroes belonging to the Galley w^{ch} may be mounted on any of the works, and there is no want of ammunition in the Garrison. The Number of the Garrison according to our best information consists of Four Company's

* At this point a retort by one of the officers provoked a flood of billingsgate which Winthrop did not scruple to report to his uncle, and it is printed in the Winthrop Papers.

† It was this meeting of the Council, probably, that Charlevoix (Shea's translation, vol. V., p. 196) had in mind when he declared "the Governor-General of New England convoked in haste all the deputies of the cities and towns, depending on the Parliament of Boston, warmly showed them that the nation was forever dishonored, unless they avenged the affront just received by Colonel Mark before Port Royal," etc.

‡ Executive Records of the Council, vol. 4, p. 418.

of Soldiers, six Companies of the Inhabitants, sixty men lately arrived there from Quebec, and near thirty Indians; they have twelve Month's provision sent every year from Europe for two hundred Men, the species are: Meal, Bacon, Suet and Molasses, besides this Mr Subercase brought with him four hundred Barrels of Meal from Placentia. What other provisions they have is brought in by the Country People, and to help expend the same there is near two hundred Women and Children in the Fort.

2^{dy} Our opinions are and always was that it is practicable to attempt the taking of the Fort, Provided there be a sufficient number of Able Men, the taking it by storm would be a Work very difficult for us considering the undisciplin'dness of our Men; but by sitting down before it, and making regular approaches, we are apt to believe, time would bring them to a Honourable surrender.

3^{dy} Our opinions are, that there was not a sufficient number of Men upon the place.

4^{dy} As to a further supply of Men and other necessaries, we humbly leave the consideration thereof to your Excellency and the Honourable Gentlemen of the Council

5^{dy} Our Moving so suddenly from off the ground may be no disadvantage to us; because the Enemy not knowing our design cannot reasonably expect our return, by which means they may be dispersed in several parts of the Country; if so, it will be to our advantage, and should they be inform'd of our coming again, we can still take our ground with more ease than at first, we being the better acquainted with the place.

(sign'd).

J: REDKNAP.

NATH: HOLMES." — *Ibid.*,

p. 420.

Appleton signified his dissent from one article of the report as follows:—

"I agree with the two other Gentlemen in this Report, saving to the third Article. I am of opinion there was a sufficient strength upon the ground to lay a regular Siege to that Fortification.

SAM^l APPLETON." — *Ibid.*,

p. 421.

Thereupon the Council passed the following vote of advice:—

"Upon the Question being put at the Board: Whither the Council do Advise, that the Forces be ordered forthwth to return back to Port Royal and posses themselves of the Ground there? to be further enforced as the Representatives have proposed?

Advised. That it be put in Execution accordingly." — *Ibid.*, p. 422.

During these proceedings in Boston, Wainwright and Stucley replied to the communication conveyed to them by Lathrop, as follows:—

"May it please yo^r Excellency.

I rec^d y^rs. by Lathrop. signifiing yo^r Excell^{ys} pleasure; That we Return To o^r Camp. at w^{ch} (for the service of ye Country,) I sincerely Rejoyce. On the other hand I must say I am very much Troubled, Att the ungenerableness of Some of the Masters of o^r, Transports who (notwithstanding they were forbid) have presumed To Ramble away, we know not whither but possibly may Center at last at Nantasket. I hope yo^r Excell^{cy} will give orders for their Return to us To Casco-Bay. To attend their Duty in ye service. I hope the Gentlemen we sent are waiting upon yo^r Excell^{cy} Rendering an acco^t of our proceedings at Port Royall, and the state of that place. w^{ch} will be without doubt far Different To the acco^t given by that Impudent Lyeing Hill, and will make such a discovery of Truth To yo^r Excell^{cy}, and the Generall Court, as Really To Beleene, (by a good Reinforcement of five hundred good effective men, provision, and Ammunition, &c. that by a Long seige, we might Reduce the Fort To very great distress, and if we Belag^g it Long Enough To a surrend^r I doubt. not.: Certainly if we Take, or prevent their store-ship giving them Supply they must of necessity surrend^r And we haueing Impericsh'd the Inhabitants so greatly. I beleene now Indeed is the Only Time To Gain that Fort; I am very glad our Country-men are so Zealous, and Push forward so Resolutely in the matter. Sir, I am of Opinion that our breaking up the seige, (if we Return) will be no Disadvantage to us, but Rather the Contrary. Probably upon our Return we may Surprise many of them who are Takeing a Malancholy new, of their Distressed state. And must (when they Come to Behold their fields of Corn on fire, and Every thing else (Eat-able) destroy'd Cause them to Surrender, and ask for Boon Quat^r. I must again offer my Opinion now is the Time or never. And I had Rather return and use all possible Endeav^{rs}. for the Subduing of them, and their Fort. Then to my family whom I love very well. And upon our Return will be the Proper Time to visit Menies, and Shecanecto. by a Party And to distress them by Burning their Corn, killing their Cattle, that a Supply from them may be prevented. And if we miss this opportunity. it is a Question whither euer we haue such an opportunity again. I Cannot but Express the wonderfull goodness of God to us in losing no more men by y^e Sword, In giving such Generall health.; And pleasant weather as Euer was known: I know not why (By a good Reinforcement) we should be Discouraged in y^e service. I shall heartily be sorry if the Generl Court should (by any Information) alter their opinion from what yo^r Excellency wrote mee. I am heartly Sorry for any Mistakes we haue made. And I doubt not but all wise men will Call them so. Rather then Acts of Cowardise. I beleene upon a New attempt at Port Royal, we shall amongst us Contrine a way for y^e gaining of ye mortars. To our Camp. I was in the day of it and am still heartly sorry for the great misunderstanding between Colo March, and Colo Redknap who were the only Masters of our Design I hope on Colo Redknaps return, they will be reuinted in their Opinions for y^e service I Earnestly desire, a happy Result in our Expedition.; w^{ch} with the Tender of my humble duty To yo^r Excell^{cy} and Service To ye Honorable ye Council, and house of Representatives is from him who would approne himself the faithfulllest of all yo^r servants—

Casco: June, 17th 1707.

FRANCIS WAINWRIGHT." — *Mass.*

Archives, vol. 51, p. 160.

"Deptford in Casco bay. 17th June 1707

S^r/

I send you this by one Lathrop: there is nothing new for me to Lay before your Excellency, more then I have allready done. Colo March is daily brewing fresh notions, but

I'me affraid to no purpose. I return your Excellency thanks, for your care of my men, and am
 Sr Your Excellencys most humble Servt

CHA: STUCLEY./."—*Ibid.*,

vol. 71, p. 359.

The Governor was shrewd enough to perceive from the drift of opinions expressed by the more outspoken, as well as by the cautious reticence of others, that if the return of the army to Port Royal were determined upon it would not do to commit the superior command exclusively to March, and yet March was one of his favorites, to whom apparently his son had become warmly attached, and one who was popular, or was reputed to be popular, with the rank and file; and they would be likely to make his supersedure the pretext for insubordination. At this juncture Dudley received the following letter from the Governor of Rhode Island, which is important, inasmuch as it contains the first suggestion of the plan adopted by Dudley as the only available course to relieve his embarrassment:—

"Rhoad Island June 18th 1707

Sr

These are by Lt Collonel Wanton who is going to wait on yo^r Excellency. wh^{ch} I conclude will be more proper and will giue you greater satisfaction then he could do by wrighting—

If yo^r Excellency do Resolue that the fleet and forces Returne to port Royall againe, I shall presume to giue my opinion. that the Leaucing the matter to a councill of war, may againe prone of Ill consequence, by Reason the majority are of the Captains, who are inferiour officers, and do not Looke att their Hon^r and Good of the Cuntry so. much as the superiour officers & comand^{rs} in chieff will do—

I shall further propose that if yo^r Excellency should appoint three Generalls. Each to Command his day by turnes and any two of them agreeing vpon any service it may be allowed of to be put in Execution, whether this method would not be better, then to be govern'd by the majority of a councill of war, and would not animate the Generalls to out vye. or Exceed Each other. in courage: and conducte. I shall submit to yo^r Excellencys Judgment and Wisdome: being sencible that you will do nothing but what may by yo^r Wisdome be thought most Expedient for her Maj^{ties} service Hon^r and good of yo^r cuntry. our Treasurer Cap^t Sheffield is with Lt Collonel Wanton with whome yo^r Excellency may aduize and communicate what shall be thought proper to my selfe and coun-
 cill—wh^{ch} I have ordered to meet on the Last day of the weake, at wh^{ch} time I shall Expect their Returne I am

yo^r Humble & Obliged Servant—

SAMLL CRANSTON."—*Ibid.*,

vol. 2, p. 159.

The letter from Cranston to Dudley was brought to Boston by Lientenant-Colonel Wanton and Captain Nathaniel Sheffield, treasurer of the colony of Rhode Island, who were sent as special messengers for that purpose. On the nineteenth these messengers waited upon the Governor in Council to present the letter, and the next day Dudley returned the following answer:—

"Boston June. 20 1707.

Sr

I am extremly Obliged by ye freedom and aduice of your letters two days since, & more by the hands you sent them, Lt Colonel Wanton & Mr Treasurer Sheffild Lt Colonel Wanton is the only man that I have yet bid welcom, coming from the forces, & I have a Just and honorable regard to His behaviour in the vnfortunate management at port royall, which I shall always truly represent,

I have now to acquaint you That the General assembly of this province, at their rising prayed me further to proceed & to reinforce them with shipp's & men, & since their recess by aduice of her Majestys Council here, I have stayed seventeen of the fleet in Casco bay whither I am sending victuals & stores necessary & have preserved the soldiers on board six vessells that are gone to piscataq; and Marblehead, & have taken up a very fayr ship of 300 tunns, 24 Gunns & sixty saylour's & I shall adde two or three companyes of Musqueteirs,

& agreeable with your aduice I shall send two or three Gentlemen superior to any command already there & Direct no officer under the Degree of a major to be called in advising to the Council of warr and that it be not there debated whether they shall obey or run Counter to their orders, notwithstanding an Honorable Discretion is alwayes given to the Comander in chieff of any force going foreign, which is never pretended to be Improvd to Do or neglect any thing Hurtfull to the servis.

I earnestly Desire you will restore Lt Colonel Wanton to the service with the men he carryed home the others are well on board & if it be beyond the Limits and grace of your assembly I will rather subsist them vpon the charge of this province then part with them, & Sr to say all at once If you can give me no body els give me my Wanton & I will take care for him, I beleive he will be able to whisper you who I shall send to Command the affayres which I do not set down having not yet got so farr as to Declare it at the Council board,

I hope by this time & the methods we have taken our officers are sensible of their Desperate Mistake to leave the ground without order & to neglect the ravage of the Country expressly Comanded them, & I beleieve they wil more carefully obey for the future,

I Submit the whole Affayre to the good Providence of Almighty God. and am with
 Regard.
 Sr your humble Servt—

J DUDLEY.

Govern^r Cranston."—*Ibid.*, vol. 71, p. 360.

Meanwhile preparations for the return of the expedition to Port Royal were being pushed by the Governor. The stores of provisions of the fleet still riding at Casco Bay were running very low; therefore, on the nineteenth, a vote was passed by the Council advising the Governor to direct the Commissary-General "to provide and supply her

Maj's Forces for Nova Scotia &c^a with forty two day's Provision for one Thousand Men, & with such quantity of Ammunition and other stores of War as are needful." *

At the same time an order of advice was passed that Belcher be directed to take up the ship *Ruth* Frigate, lately commanded by Captain Gerrish, and to cause her to be fitted and equipped forthwith for a ship of war, to join the intended expedition. The committee who had been employed to fit up vessels for the former expedition were to superintend this work, and the cargo of sugar with which she was laden was to be taken out and landed. On the next day a proclamation was issued for manning her with sixty sailors † under command of Captain John Alden.

A commission was also issued to Captain Ephraim Savage for a foot company to join this expedition, and Captain Joseph Buckminster ‡ received a like commission to raise another company for the same purpose.

On the twentieth, also, the Governor in pursuance of Governor Cranston's advice "intimated to the Council, that by the unhappy mistakes and mismanagements of the Forces Eastward, he judged it necessary for her Majesty's honour and service, to appoint a Superior Command and Conduct to what is already in the Field by Commission to Col^o Mareh.

And nominated Col^o Elisha Hutchinson & John Leverett Esq^s to be jointly commissioned with another Gentleman, whom he would name to them to morrow, for the Superior Command & Government of those forces.

Which the Council Advised accordingly." §

It would seem that notice of their nomination was promptly given to Hutchinson and Leverett — since on the next day the latter wrote to Dudley, from Cambridge, as follows: —

"Cambridge June 21^o 1707.

May it please yo^r Excy

Upon the review of yesterday a much greater unhappyness arises upon me then at first Shew'd itself. Might I have obtain'd yo^r Excy's Opinion, that it would have bin a peculiar favour to me, and no disservice to the publick to have forgot my name it would have Eased me of the difficultest task Save one in the World. If yo^r Excy's knowledge of me will not take away the necessity of formall protestations of my Zeal to Serve and obey you, I am ready to make them in the most convincing manner; That I can embrace nothing more readily then the Opportunities of Obeying yo^r Excy's Comands and Serving my Countrey, wch I take to be the Same thing, in every thing I am capable of; That the waiting upon Col^o Hutchinson has Every thing in it more agreeable, then that of any other person, yo^r Excy's only Excepted, That the difficulties & hazzards of the Expedition abroad have nothing terrible to me But upon Consideracons of the state of my affairs and a penetracon into the Service yo^r Excy has don me the honour to name me to, according to the Shortness of the time you have bin pleased to allow me, there arise Such insuperable difficulties, That I most humbly beg yo^r Excy to believe, that it is only because I can't Surmount impossibilities, that I renew my requests & prayer to yo^r Excy to dispense with my attendance upon the Service to Port Royal.

I am Sure yo^r Excy has none more willing & obedi^t but you have a great many more Capable Serv^{ts} then I am, and my Countrey has not any of her Sons but are more agreeable to her then myself, and as any of their hands can more powerfully raise & Support her, So they wilbe more acceptable. I thought That what I offer'd at first would have proved Sufficient to have prevented a thought of me in this affair, I am Sure what has Since bin Suggested in my retirem^t which are not So proper in this way to be Laid before yo^r Excy, are too powerfull for me to resist, and oblige me to assure yo^r Excy, That as it wilbe the greatest hardship in the World not to be Excused So it wilbe the greatest obligacon not to impute this Impunity & fixedness in it to humour or obstinacy, by || to the necessity of my affairs, & my unhappy because inevitable incapacity to perform a Service So honourable. I pray Almighty God to direct yo^r Excy's Councils in all things Especially in this So important article. And beg Leave to Subscribe

Yo^r Excy's Most Dutyfull & Most humble Serv^t

J. LEVERETT." — *Ibid.*,

vol. 51, p. 161.

Townsend was nominated on the twenty-first,* and by the twenty-seventh, it appears that Leverett's objections to serving had been overcome, since on that day a commission to him jointly with Hutchinson and Townsend, and a draught of their instructions, were read at the Council Board.** Before the date of this commission an order in Council had

* Executive Records of the Council, vol. 4, p. 422.

† An account amounting to £4 19s. 10d. was allowed by the Council April 4, 1709, to "Henry Sharp of Boston Taverner . . . for drink at sundry times by Order of M^r John Frizell, for the encouragement of sixty men that voluntarily offered their service, for the equipping of the Ship *Ruth* Frigate, Capt^o John Alden Commander on Her Majesty's service, for the Expedition to Nova Scotia Anno 1707," and a warrant was issued for the payment thereof. — *Executive Records of the Council*, vol. 5, p. 44.

‡ Savage's service dated from the twentieth, and Buckminster's from the eighteenth; and on the muster-rolls the time of service of the company of the former dated from the twenty-fifth and twenty-sixth, and of the latter, from the twenty-third and twenty-fourth. See *Executive Records of the Council*, vol. 4, pp. 535 and 548.

§ Executive Records of the Council, vol. 4, p. 423.

|| Sic; but.

* *Ibid.*, p. 424.

** On the third of July, agreeably to the advice of the Council on the day before, the following, additional commission, for exercising martial law, was issued to the commissioners: —

"Joseph Dudley Esq^r, Capt^o General and Gov^r in Chief in and over Her Maj^y's Province of the Massachusetts Bay &c. In N. Engl^d

To Col^o Elisha Hutchinson Col^o Penn Townsend and Jn^o Leverett Esq^s Greeting.

Whereas I have already constituted and appointed you, the s^d Col^o Elisha Hutchinson, Col. Penn Townsend & Jn^o Leverett Esq^s Joint Commissioners for the Superior Command conduct Rule & Govern^t of Her Maj^y's Forces on the Expedition to Nova Scotia and L^acadie.

been passed * directing Colonel Townsend to "make necessary Provision of fresh victuals, with Biskett, Sugar, fruit, Spice and other small stores for the sutable accomodati^{on} of" the commissioners "and to lay the Account of the charge thereof before the Board." † On the twenty-eighth the Commissary-General was ordered to provide for the *Ruth Frigate* four ‡ good guns of equal or greater weight, in place of a like number of guns of her armament which were unserviceable, and, on the second of July, Captain Alden received his sailing orders, as follows:—

"By his Excell^{ty}. Joseph Dudley Esq^r Govr and Vice Admiral. &c.

To Captⁿ John Alden Commander of Her Ma^{ty}s. hired Ship the *Ruth Frigate* I order That you receive on board the s^d Ship the two new rays'd foot Company's Commanded by Captain Savage and Captⁿ Buckmaster, and so soon as Colonel Hutchinson, Col^o Townsend and John Leverett Esq^r Commiss^{rs} for y^e supr Command of her Ma^{ty}s Forces on y^e Expedition to Nova Scotia &c. with their attend^{ts} and Servants shall Embarque, you take the first wind & Sayle to Casco Bay, to joine her ma^{ty}s Ship Deptford and y^e Fleet there, and then observe the Directions of Captⁿ Stucley Command^r of Her Ma^{ty}s s^d Ship for y^e Sayleing in Comp^t to Port Royal; but in case Captⁿ Stucley with y^e Fleet be Sayl'd before y^{ou} arrive at Casco, then y^{ou} are to proceed forward, with the Transports attending you according to y^e Direction of Col^o Hutchinson & whilest you continue at Port Royal or other parts of Nova Scotia and L'acadie. you are perfectly to observe and follow the orders and Directions of Col^o Hutchinson & y^e Gent^l in Commission with him; for assisting the Service to y^e utmost with your Ship and men. Bnt on your Return homew^d you are again to be under y^e Direction of Captain Stucley for y^e Sayleing & anchoring That so y^e Fleet may keep together

Given under my hand at Boston the 20nd day of July 1707." — *Ibid.*, vol. 71, p. 366.

While affairs were thus actively proceeding at Boston, there prevailed among the military officers in the fleet unconcealed dissatisfaction as to the past, and uneasiness as to the future, and among the men, both on board and on shore, a spirit of distrust and resentment approaching to, and in some instances culminating in, actual mutiny. § The men had enlisted under chapter 142 of the resolves of 1706-7, which, by expressly providing for subsistence for ten weeks' service only, had impliedly indicated that that period was the limit of service; and if any soldier had not served the full term of ten weeks from the date of his enlistment, it was certain that considerably more than ten weeks would expire before he could go to and return from Port Royal and make a successful demonstration against the enemy in the mean time.

While from motives of prudence the causes of disaffection among the officers were not openly declared, it can scarcely be doubted that the main cause was the deference paid by the Governor to the officers in the regular service, and his evident desire not to displease them. This produced not so much a feeling of jealousy as a conviction that the failure of the expedition thus far was mainly attributable to the Governor's implicit confidence in men with no local pride or interest to spur them on, and that the young Secre-

Pursuant to your s^d Commission And In observance of the Powers and Authority In and by Her Ma^{ty}s Royal Charter of y^e s^d Province of y^e Massachusetts Bay to me Grant^d by and with the Advice & consent of Her Ma^{ty}s Council, to Grant Commissions for using and exercising the Law martial in time of actual War &c as occasion shall necessarily require. I do by and with Advice and consent as afores^d further Commissionate you the s^d Col^o Hutchinson. Col^o Townsend and John Leverett Esq^r or any two of you, whereof the s^d Col^o Hutchinson, unless removed by death, or too far distant alwaies to be one, to use and exercise the Law martial accordingly, in y^e Governm^t of y^e s^d Forces & from time to time to call and assemble Courts martial, for the hearing & punishing of Offences against the Law martial or Rules & Articles of War herewith given you; no Court martial for offences that may be punish^d with death to consist of fewer than Eleven, whereof none to be under y^e Degree of a Commission officer under pay and two at least of your Selves one whereof to Preside, such Court to have Power to Administer an oath to any Witness in order to y^e due Examina^{ti}on of the Tryal of such offences. Every officer present at each Tryal before any Proceeding be had thereupon to take an oath before the Court and a Justice of the Peace if any be present, otherwise y^e Presid^t of such Court being first sworn by two members thereof to Admin^{is}ter y^e oath unto y^e others who are hereby respectively Authoriz^d to Administer y^e same, in these words. Viz^t you shall well and truly Try and Determin according to your Evidence the matter now before you between our Sovereign Lady the Queen and y^e Prisoner now to be tryed. So help you God, as has been Enact^d by this Governm^t. No Sentence of Death to be given against any offend^r unless nine of y^e Eleven officers present shall concur therein and if there be a great number of officers present than by y^e concurrence of y^e greater part of them Sworne with major p^t shall not be less than nine and not otherwise & no Sentence of Death pass^d by any Court martial, to be put in Execution until Report be made of y^e whole matter by y^e Presid^t of such Court unto my Selfe or y^e Commander in Chief of this Province for y^e time being in order to receive Direction therein. The Prisoner to be kept in safe custody in the mean time. And before any Sentence be Executed, the Provost or Field Marshal to have a Warrant Signed by the President of the Court to cause Execution to be done according to y^e Sentence.

Given under my hand and the Seal of the Province at Boston the third day of July. 1707. In the Sixth year of Her Ma^{ty}s Reign.

Sign'd. J DUDLEY

By Command of his Excell^{ty}, by and with the Advice and consent of the Council.

I. A. Seery." — *Mass.*

Archives, vol. 71, p. 368.

With the above the commissioners were also to receive "several rules and articles of war."

* On the twenty-fourth of June. Executive Records of the Council, vol. 4, p. 425.

† On the first of July the Council advised that a warrant be drawn on the province treasurer to pay Townsend one hundred pounds on account of this provision "his account of that expence not being fully perfected, so as to be given in." — *Ibid.*, p. 431.

‡ "And more if they may be of service."

§ "I find a round robin among Col. Hutchinson's papers, signed by a great number, peremptorily refusing to go to Port-royal; but the ringleaders being discovered and secured, whilst their sentence was under consideration, the rest humbled themselves and submitted, and the ships of war and transports sailed." — *Hutchinson's Hist. of Mass.*, ed. 1767, vol. 2, p. 168, and see chapter 74, post, and note.

tary of War was in sympathy with these men. The disaffection was aggravated by the fact that neither Stucley nor Redknapp disguised his indifference to the success of the New-England soldiers. However experienced these detachments from the militia might have been in partisan warfare with the savages, they were held in contempt for their inferiority to the regulars in point of military bearing and proficiency in tactics.

From the standpoint of to-day it is difficult to perceive, in view of the probable continuance of this want of harmony, any reasonable basis for Dudley's expectation that the new venture would prove more successful than the first; nor is there any obvious reason for doubting that this was the judgment of most of those who had witnessed the fickleness, halting and discord in the recent demonstration against Port Royal. Dudley, however, was bent upon another effort to retrieve the unfortunate results of the former campaign, and in this he felt amply justified by the report of the three deputies sent by March. By commanding the fleet to remain at Casco, he had prevented a possible revolt which might have broken out with disastrous results had the fleet been nearer home; and by the same policy he had succeeded in keeping enough of his force together to secure the prompt execution of his future orders. On the twenty-first of June he had communicated to the Council draughts of his letters of that date to March and Stucley, which, it seems, had not reached their destination by the twenty-fourth, when the latter wrote to Dudley without mentioning them. No copy of either of these letters has been found, but in the letters written on the twenty-fourth by Stucley and William Dudley the writers concurred in expressing their anxious expectation of news from Boston in regard to their future course, and a desire to be defended from the rumored aspersions of Colonel Appleton. Stucley, in self-defence, sent to the Governor the journal of his "whole proceedings during this expedition." He also enclosed an account showing the state of the Deptford "both as to men and provisions," and stated that he had advised Colonel March "to do the same as to the army." The letter from William Dudley, since it shows the prevalent feeling in the fleet against Appleton, is given below, *entire*; viz.,—

"Casco Bay. 24. June. 1707.—

Honoured Sr

We are all in good Health, and in great Expectation of News from Boston of our return either home or to port Royall And the many reports and rumors Spread over the Country make our great officers very uneasy, Especially that Colo Appleton Should go to sett him self up and raise him upon the ruin of Some of our officers or at Least his advancement above them which they as well as all our Souldiers are very much troubled at: tho resolved to be content if they can do the Country any Service, it must be Said and every day is that he was the only Instrument of raising the Seige that he might Save the Countrys money, but as they say only to save him self from the Danger which he always was very apprehensive of and would Senk and hide as if he never heard a gun, Sr I dont make itt my buiness to reflect or make Remarks but am resolved to obey any and every body above me, and Serve in my Station which I have hetherto done to the utmost of my power, and indeed as the matter is Circumstanced I have a very difient task, but Do expect as every body else a Change as to our Commander in Chief when things will go on with ease and good government, which has been wanted very much, and is the Cause of the deserting of twenty men yesterday and as much Care and prudence taken as if they were not concerned, and the Colo as if he had nothing to do but make himself popular and a party; which end Colo Appleton was also inclined, and hopes (as the report is) to be one of the three tho as unwilling to come or return to port royall as any man Living. After my most humble Duty to my Mother, I remain your obedient and most Dutifull, Son & Servt

W: DUDLEY." — *Ibid.*,

vol. 51, p. 164.

These letters, which were brought by the chaplain, Mr. Epes, and the steward of the Deptford, were read in the Council on the twenty-seventh. The record states that a letter from Colonel March was read at the same time; but unless by this is meant the above letter of the Secretary of War it has not been found. On the twenty-eighth both March and Stucley replied to the Governor's letters of the twenty-first, which it appears reached them on the twenty-seventh.

March's letter, showing how he was affected by the news of his subjection to the commission, is given below; viz.,—

"Casco bay June 28th 1707

May It plesse yore Excelency

yesterday I Received: yore Commands: of the 21 Curant: by mr lowle: and god willing will indoxor to follow Them: and doe what sarnis I can: Sir I Immediately: Informed: Capt Sovthack: and the other masters what yore Commands: ware: who said the Could not goe to see before that thay Had more prouision: and Capt Stootly soore* his provision was quite dun: where: upon I: Immediately ordered the Commissarys: to goe one bord Every nessel in the fleet and see: sartingly: what prouision and stors: there ware: which Account I Have now sent Mr Commissary generall:

Sir I Am Hartly sorry that I haue offended yor Excelency in Anything: and Am sure it was no way designed in me: and haue not bine Justly delt. with by: those that haue informed yore Excelency: but sine it is yore Excelencys plesure: to dismis mee from those Commands you were formerly plesed to put me in: I will patiently bare it: and doe you what sarnis lvs in my power: and sine it is so: would haue bine glad if you would haue bine plesed to haue Released me: for I sartingly know: that if there be Any thing well: and Honorably dun: I shall haue no share in that: but if Any thing fall out other wise: that will fall to my share: Sir oure men Are generall: cherly and brisk: and are most of them willing to goe Agaïne: I shall Indnor To keep them Cleane and In good temper: According to yore Commands: sir the Indians that Ran from us: I haue taken them all

* *Sic: swore.*

Again: and they doe so hartly bagg pardon: for theair offenc that I haue Respited theaire punishment till yore Excellency's plesure is known what I shall doe to them: may it plesse yore Excellency Mr Jefferise haue bine very Industrious: in doeing of mischief: As hee hath here Confesed: As yore Excellency and honours will see under his owne hand: here Inclosed: with my most Humble duty: I Am
yore Excellency's most Humble and obedient sarvnt

JOHN MARCH." — *Ibid.*,

p. 168.

Stucley, in his letter,* transmitted a copy of the account of provisions remaining in the fleet, and expressed regret that Dudley had refused his request to be permitted "to come to Boston to Victuall," which, he declared, would have enabled him to attend to some private affairs, and saved him from being "almost murdered by Musqueteers." He continued by requesting the Governor to secure for the Deptford "what Foreigners" he could, "that the inhabitants of y^e Provinces . . . that are now aboard" the Deptford "may be exchang'd" — thus intimating a desire to be in readiness to return to England. "To remove all doubt of his wish to be prepared without delay for his return home he added, "Your Excellency considers, I cannot safely return home without my complement. I desire my men return'd to Boston may be sent me the first opportunity."

Dudley, however, was not moved by this appeal. He had already, in the following letter, directed the contractor for furnishing supplies for the Deptford to put them on board at Casco Bay: —

"Boston. 23^o June. 1707. —

Sr

Understanding That you are under Contract to victual Her Majesty's Ship Deptford, Captain Stucley Commander now at Casco Bay attending as Convoy and Cover to Her Maj^{ty}'s Forces Eastward, And that there is a Demand of a further Supply of Victuals for the said Ship; It being Inconsistent with the Service for her to remove her Station.

I Expect and Direct That She be victual'd, where She lyes, for the space of forty two day's or more, over and above what is at present on board. — . . .

And that you Transport the same on the Ruth frigate or such other Transport Vessell wch I am sending thither free of Risque and charge to yor Selve for wch this shall be a Sufficient Warrant.

J DUDLEY

Mr Nicholas Roberts." — *Ibid.*, p. 163.

Though Dudley had the sagacity to perceive the ill consequences of allowing the principal convoy of the fleet to leave her post, and the firmness to reject the proposal of such a proceeding even from the representative of the queen's navy, he endeavored to mitigate Stucley's disappointment by kind words, at the same time imparting to him his plans with regard to the intended expedition, and the orders for his guidance during the campaign, in the following letter: —

"Boston July 1. 1707

Sr

I am sorry the service demands your being abroad and absent from me so long, but being determin'd to goe upon the ground of Port Roy^l again, I cannot be there without your service; Your victuals is all on board Geerish at the Province freight, and I have not altered any form in the forces, but added a Superior command to Coll^o hutchinson, Coll^o Townsend & Mr Leverett who brings this to you; and I desire and direct, that you will take the first wind and weather to bring y^e Fleet to Port Roy^l, where I have ordered the Forces immediately to land again, and recover theire ground, and you will Lay the Queens ship where she may with safety be most serviceable to the Fleet, and render all possible assistance to the Forces in theire proceeding, and when Coll^o hutchinson, and in his absence the Gentlemen in Commission with him, shall intimate to you theire intention to Leave the place to goe to any other parts in that Country, or to return, you will take care of the Vessells accordingly and not suffer them to straggle, or Leave the fleet without Coll^o hutchinsons, or in his absence the other Gentlemens directions. I am

Sr Your humble Ser^t

J DUDLEY

To Cap^t Cha^r Stucley &c." — *Ibid.*, p. 171.

Dudley's perplexities and discouragement were increased during this time by reports of the renewal of Indian outrages on the frontier,† and by delay in the execution of his

* Mass. Archives, vol. 51, p. 167.

† *"Albany, June 10* We are certainly informed here, That there are several Parties of Indians gone from Canada to make a Descent upon the Frontiers of New-England. This Morning came here an Indian who had been in Company with 20 of them." — *Boston News-Letter*, No. 166. June 16 to 23, 1707.

"Jun. 11, 1707. Mr Dudley Bradstreets man was slain by the Indians at Groton — nomine Brown. — about the same time a very faithfull & serviceable friend Indian, called John Daniel dwelling at or near Cambridge was also slain as he was fishing at a pond.

Jun. 16, 1707. Philip Carpenter a Jersey-man, with his wife & 3 or 4 children, were slain by the Indians at Spruce-Creek about the middle of the day. The Indians (being 7 in number) were met with by the English three or four times and fired upon. Some packs were taken, but the enemy got all off & escaped." — *Pike's Journal*, in *Proc. Mass. Hist. Soc.*, 1875-1876, p. 145.

"Piscataqua, June 20 . . . The Indians are Skulking every where on our Frontiers; and on Monday last 7 of them came to Spruce-Creek in Kittery, and kill'd Phillip Carpenter, his Wife & two Children, but had not time to pillage the House. A Party of our Forces went in pursuit of the Enemy." — *News-Letter*, *ut supra*.

The last Indian outrage before these, and the first during this year, was in May, and is thus mentioned by Rev. John Pike, in his journal: —

"May 22, 1707. Two young Girls were carried away by the Indians from Bunkers Garrison at Oyster-River, viz. the Daughters of Tho: Drew [husband of Damsen (or Thomsine) Drew mentioned in the note to the resolves of 1698, chapter 46] (near 13 years old) & daughter of Nathl Laismos (much younger). This was the first mischief done by ym in ye year 1707." — P. 145.

orders to get Captain Chesley's company together again* on board the Sarah and Hannah. There were also reports of desertions from the companies of Captains Williamson,† Burrill, and Putnam. A proclamation was published for the arrest of Williamson's men, and orders were issued to the others to return to their duty within forty-eight hours. Other desertions followed, but by the twenty-eighth, as appears by a letter from the Secretary of War, the Indian deserters had been taken between Cape Porpoise and Saco and were confined in irons on board ship, to be tried by court-martial,‡ and the next day William Dudley wrote, "Appleton's, Talbot's, and Frothingham's men are taken and returned, and three of Holmes's men are gone in their room. We have sent after them."

In William Dudley's letter of the twenty-eighth he states that "this Day Mr Jeffrey's was humbled for his scurrilous abusive Letters and his recantation as by the Inclosed;" but it is significant that the following passage in the same letter furnished evidence of March's disposition to protract, and to suggest obstacles, even when it was certain that he was to be deprived of his authority to control the movements of the forces:—

"Colo March Dos not Constrne his Last Letters so as to return without the Reinforcement coming we not being strong enough to go to menis &c and the fort, at the same time which will be most Convenient as every body supposes, howsoever that affair will be Left to the Gentlemen." — *Ibid.*, p. 169.

The Secretary proceeds to depreciate the soldiers, and to follow the example of Stucley in censuring the Commander-in-Chief, thus:—

"Sr a great many of our men are very unwilling to go again but severe Gover! will cure all that, (tho very much wanted hetherto,) and still will if Colo March has the power which he now has, we expect Great matters from our reinforcement coming." — *Ibid.*

In this letter and the next he represents that Colonel Wainwright is "much concerned that he should be rendred a Coward," and asks in Wainwright's behalf that the Governor send two Frenchmen (prisoners) to Ipswich, "as soon as may be . . . to help his husbandry forward." §

Dudley understood how to ingratiate himself with the good livers in his service and made little account of the incidental draughts upon the province treasury. Perhaps he was wise in this, and that the luxuries put on board the Ruth Frigate for the commissioners were, like his present of wine to Vandreuil, and his entertainment of Courtemanche, at Boston, a profitable investment. Redknap availed himself of the Governor's known liberality in this respect to present, for himself and his associates, an account which was allowed on the twenty-first of June, amounting to eleven pounds and nineteen shillings, of expenses incurred for "horse-hire, table, and guide" in their journey from Piscataqua to Boston as messengers from Colonel March.

By the end of June preparations for the expedition had so far advanced that the anxious public were disposed to take heart, and hope for the best. Sewall, under date of the first of July, records that "A Rainbow is seen just before night, which comforts us against our Distresses as to the affairs of the Expedition, and the Unquietness of the Souldiers at Casco, of which Gideon Lowel brings word, who came thence yesterday." ||

At length, on the sixth of July, the Ruth Frigate, her freight being stowed, and she otherwise ready for the voyage, and having taken the three commissioners and their attendants on board the day before, ¶ set sail for Casco Bay. While she stood on her course, in the month of Boston Harbor, Leverett confided to one of his neighbors, taking leave of him, the following farewell to his wife, in Cambridge:—

"My Dearest

I have but Just time to write three Lines to you by Mr Bordman to tell you we are got wel & under a very good gale by the Brusters. hope by to morrow morning to be at Casco. Love me and Remember me, give my Duty to Mad^m Rogers** and bless the Dear Birds in the name of

My Dearest yor Affectionate

LEVERETT.

Broad Sound July 6^o 1707 5 min. past one afternoon." ††

The next day the commissioners joined the fleet,—an event which is thus described by Barnard in his narrative:—

"July 7. Arrived to us at Casco Bay, the Ruth frigate, of 24 guns, Capt. Alden commander, and two companies, Capt. Ephraim Savage, with his 50 men, and Capt. Buck-

* On the twentieth the council of New Hampshire passed the following order:—

"Ordered, that Mr. Secretary Story summons Capt. Chisley to appear at this Board by two of the clock in the afternoon; and to write to Major Smith that he take care to perform his Excellency's orders and directions about getting Capt. Chisley souldiers together, and to put them on Board the aforesaid Sloop, there to continue till his Excellency's further orders." — *Provincial Papers of New Hampshire*, vol. II., p. 508.

† These were Indians.

‡ "The Indian Desertera . . . were taken between Cape porpos and Saco, and are now on board In Iron's we not being able without particular order to try them, as our great officers presume, I cannot say whether it was forgot or no we wait your Excellency pleasure thereon, and I hope the Gentlemen Coming will bring that power with them, for the souldiers say Delays come to nothing." — *Mass. Archives*, vol. 61, p. 169.

¶ Full authority in such cases was given to the commissioners appointed to take the superior command. See their commission for this purpose printed in the foot-note on pp. 730, 731, *ante*.

§ *Mass. Archives*, vol. 71, p. 305.

|| *Diary*, vol. II., p. 189.

¶ "July, 5th Go to Col. Hutchinsan's to wait on him, Mr. Leverett and others to the Water side. Go off at Scarle's Wharf. Have three cheers, they 3, one from us. After Col. Townsaud went off alone; — did the like by him. The Lord prosper them." — *Ibid.*, p. 191.

** His wife's mother, Elizabeth [Denison], the widow of Rev. John Rogers of Ipswich.

†† The original of this interesting letter is in the collection of manuscripts owned by Grenville H. Norcross, Esquire, to whom the Editor is indebted for its use.

minster, with his 50, which did not near make up the number of our deserters, since we lay at Casco. With them also came three gentlemen, . . . and the Rev. Mr. [Thomas] Bridge for their chaplain . . . deputies from the Government, and superintending counsellors to General March, without whose advice he was to do nothing." — *P. 194.*

On the tenth the Governor, with the advice of the Council, issued a proclamation for a general fast to be kept in Massachusetts and New Hampshire upon Thursday, the twenty-fourth. No copy of the proclamation for Massachusetts has been found; but the proclamation published in New Hampshire of the same form, *mutatis mutandis*, was as follows:—

"(By his Excellency, JOSEPH DUDLEY, Esq.) Captain General and Governor in Chief, in and over her Majesty's Province of the Massachusetts Bay and New Hampshire in New England:

A PROCLAMATION FOR A GENERAL FAST.

Inasmuch as it is the Sovereign pleasure of the Righteous God, still to lengthen out the troubles of Europe, by the continuance of the war with the Common enemy of the repose of the Christian Nations; as also our own and our neighbors troubles in these her Majesty's Provinces and Colonies, with the French and Indian enemies and rebels; withal considering the importance of the Expedition which her Majesty's subjects here are now engaged in against the said Enemy and rebels; and the just reasons we have to implore the Divine Favor for the remission of our Sins, whereby we have justly provoked the Holy God and for his blessing upon that undertaking:—

I have thought fit, by and with the advice of her Majesty's Council to appointe and order that Thursday, the twenty fourth day of July current, be solemnized as a day of Public fasting and Prayer throughout those Provinces; Exhorting both Ministers and people in their several Assemblies religiously to attend the solemn services of the said day; that by a sincere and hearty confession of our sins, and humble reliance on the Divine Mercy, we may obtain from God, that our Sovereign Lady the Queen, with the Nations and Territories under her happy Government may always be under the protection of Heaven; her Majesty's life and Government long continued; her Council and Just Arms prospered; the designs of the Barbarous Salvages against us defeated; our exposed Plantations preserved, and the poor Christian Captives in their hands returned; and her Majesty's forces on the present Expedition may be under Heavens Conduct, and have good success; that the Government of these Provinces may have the Divine direction in all their Administrations; that health may be continued and the present year crowned with the fruits of Divine bounty, and that deliverance may speedily arise to the church of God, oppressed with the Tyranny of Anti-Christ, and every kind of peace and prosperity may be given and secured to us and our posterity, upon the firm and lasting foundations of the Divine blessing and favor: And all servile labor upon the said day is inhibited.

Given at Portsmouth, the tenth day of July, 1707, in the sixth year of the Reign of our Sovereign Lady Anne, by the Grace of God, of England, Scotland, France and Ireland, Queen, defender of the Faith, &c.

J. DUDLEY.

By order of his Excellency, The Governor,

and Council, CHAS. STORY Secretary.

GOD SAVE THE QUEEN." — *Provincial Papers of New*

Hampshire, vol. II., p. 511.

A brisk correspondence between the Governor and the commissioners ensued from the date of their joining the fleet. The first letters received by Dudley arrived on the evening of the eleventh and were promptly answered, and on the next day he communicated both the letters and answers to the Council. Further correspondence between the commissioners and the Governor was similarly communicated on the nineteenth, and on the twenty-sixth other letters were received from the fleet. Neither the originals nor copies of these letters have been found; but from other sources it appears that the fleet, which had been ordered to sail on the seventeenth, was deterred by wholesale desertions at the last moment. William Dudley reported to his father on the day last named that "since yesterday we have had fifty-nine deserted," — out of Colonel Wainwright's command, sixteen; and out of the companies of Captains March and Chesley, thirty and thirteen, respectively, "and how many more we know not yet; Colonel Hilton is gone to see." The circumstances attending these desertions were so suspicious that even the innocent Secretary of War declared, that "it can never be but some of the officers do encourage, or at least wink at, the desertion of their men." Colonel Hilton wrote to his wife from Casco Fort, on the sixteenth, a letter in the following passage from which he describes the depression of the soldiers:—

"MY DEAR SPOUSE,

I can't but take all opportunities to salute you. I do earnestly embrace this as ye last before our departure. . . . The soldiers are utterly averse and will at best be but passive in returning to Port Royal, just as prisoners are transported; nevertheless, if Providence cast advantages into our hands there, they will eagerly embrace them, and if we obtain victory, God will now have a much greater share in our songs of triumph, than if we had been successful at first." *

On the twenty-first, the Governor having communicated to the Council tidings (brought by an express, which arrived from Wells the night before) of the arrest of thirty deserters, it was advised "That they be brought under Guards to Mr Pepperels Garrison in Kittery, and that Captⁿ Blew in the Briganteen Dragon, be ordered thither, to take them in, and return them to the service. And, to carry Duplicates of his Excellency's Letters express'd on Saturday last." †

On the same day, also, the Council "Advised. That his Excellency emit a Proclamⁿ for drawing in of the Souldiers that have withdrawn themselves from Her Majesty's service in the Forces Eastward. And a Proclamation was accordingly drawn up and Advised to." †

* *Provincial Papers of New Hampshire, vol. II., p. 506.*

† *Executive Records of the Council, vol. 4, p. 442.*

The Governor immediately wrote to his council of New Hampshire requesting the publication of a similar proclamation * there, whereupon the council, on the twenty-third, "Ordered, that the Secretary issue forth several Proclamations to be read in the several Meeting-Houses of this Province tomorrow,† and afterwards posted up, the Proclamation to be in the tenor and form hereafter expressed and to be signed by the Secretary."‡

By a singular forgetfulness, or from sudden prejudice, Dudley had failed to commend Hilton, whose conduct during the expedition had been exceptionally praiseworthy. Hilton seems to have taken the Governor's silence as a token of dissatisfaction, yet on the second expedition to Port Royal he resumed his post without complaint, when, as he wrote to his wife,§ "notwithstanding a thousand difficulties in our way, its ordered that the fleet prepare to take the signal for weighing anchor tomorrow." William Dudley had mentioned to his father Hilton's wounded feelings, in his letter of the twenty-eighth of June, as follows:—

"Colo Hilton gives his humble Duty and says he has a Desire to put his affairs in some posture which Lye upon great Disadvantages and hopes if your Excellency send's him back you will still continue your Care of his family and affairs, which never have been wanting hetherto, and Desires he may be pardoned if he has Done any thing amiss and if represented otherwise than he assures your Excellency he his || your very dutifull and obedient ser^t and ready to serve you in any thing to his utmost."—*Mass. Archives*, vol. 51, p. 170.

The Governor efficaciously though tardily applied a balm to the wound he had thus given, in the following letter, forgetting, however, that he had made to Governor Cranston, just one month before, the same avowal of exceptional confidence in Colonel Wanton:—

"Boston, 20 July, 1707.

My dear Kinsman—

I always had a just value for you as my good kinsman; but much more for your steady service for and love to your country. I have not neglected writing to you as being displeased, for I am not so—you being the only officer against whom I have no complaint. But truly, Sir, I was never so surprised by what the enemy can do against me, as I am at this intolerable ungoverned temper and base cowardice of my people. I pray you to be steady to Colonel Hutchinson and the gentlemen in command, to assist Colonel March. You have a brave Virginia prize in Port Royal harbour, and by and by will have the store-ship. And if you will be content to stay twenty days at Port Royal, they will desert and come over to you. However, let the Governor be obeyed and all will be well.

I am your affectionate Kinsman

J. DUDLEY.

To the Hon. Col. Hilton, Eastward."—*Provincial Papers of New Hampshire*, vol. II., p. 506.

Besides the other embarrassments encountered by the commissioners in entering upon the service to which they were appointed, they were apparently beset with loud complaints of the insufficiency and bad quality of the stores ¶ provided for the subsistence of the soldiers and seamen. On the tenth Dudley ordered the Commissary-General forthwith to make the necessary provision for thirty days for thirteen hundred men, and, on the twenty-third, ** fourteen days' provisions for the forces were ordered to be put on board the transport brigantine Lark, under command of Samuel Long, "and sent to them for a supply if needed," under convoy of the armed brigantine Dragon.††

* The following is the form of this proclamation:—

"PROVINCE OF NEW HAMPSHIRE.

A PROCLAMATION.

Whereas several soldiers under the command of Capt. Samuel Chisley, upon the present Expedition, hath deserted her Majesty's service by running away from their Colours:—

These are therefore to make known to all and every such deserters, that if they do render themselves in two days time to any of her Majesty's Council in her Majesty's Province of New Hampshire, or at the house of Mr. Pepperell, over against the Great Island, soe as to goe on board of Capt. Blew, in order to return to the Camp, they will have his Excellency's the Governour's favour, and be acquitted of Corporal punishment; otherwise they will be proceeded against with the utmost severity of Law.

Given at the Council Chamber, at Portsmouth, the 23^d July, in the sixth year of her Majesty's Reign, that is now over England, &c. Anno Domini, 1707.

Per order of the Council.

CHAS. STORY, Secretary."—*Pro-*

vincial Papers of New Hampshire, vol. II., p. 513.

The council also passed the following additional order:—

"Ordered, that the Secretary write to the several Captains of the several Towns that they make known to any of Captain Chesley's men that are deserted, that if they shall within two days render themselves to some of her Majesty's Council within her Majesty's Province of New Hampshire, or at the house of Mr. Pepperell's over against the Great Island, soe as to goe on board of Captain Blew, in order to return to the Camp, they will have the Governour's favour, and be acquitted of Corporal punishment: otherwise they will be proceeded against to the utmost severity of the Law."—*Ibid.*

† That is, on Fast Day.

‡ *Ibid.*, p. 512.

§ On the sixteenth of July.

|| *Sic*: is.

¶ The complaints respecting the provisions having been reported by the commissioners to Dudley, he, on the twenty-sixth, wrote to Leverett, " . . . we think here that the business of the Provision is aggravated to you to make a necessity, the packers here stand to it that they send good meat, but nothing can be good just at this Season. . . ."—*Mass. Archives*, vol. 71, p. 371.

On the thirty-first the Commissary-General, upon his own application, was ordered by the Council to write to Lieutenant-Colonel Checkley and Captains Thomas Oliver and Samuel Phipps to request them "to view the pork that he has procured and put up for the subsistence" of the forces.

** Executive Records of the Council, vol. 4, p. 443.

†† On her voyage to the eastward to take back to the fleet the deserters held in custody at Kittery, in which service the transport was also to assist.

Just when the fleet set sail from Casco has not been ascertained. The date given by Barnard — the twenty-fifth — is clearly wrong, since Colonel Hutchinson wrote to the Governor on the twenty-sixth as follows: —

"We have so little prospect of any service from the marine, after we have taken the ground, that, for the keeping it, we must have dependence upon our other force, being only 743 officers and soldiers, sick and well; and they are so extremely dispirited, that we cannot look upon them equal to 300 effective men. However, we have your excellency's commands, which we yield an absolute obedience to and shall proceed." — *Hutchinson's Hist. of Mass., ed. 1767, vol. 2, p. 168, note.*

The above letter, preserved by the writer's grandson, is the only authoritative statement of the number of men that sailed on the second expedition. William Dudley, in his letter* from Casco of the seventeenth of July, to his father, after representing that "every day [more soldiers] will run if we tarry here any Longer," ventured the opinion, which he undoubtedly imbibed from others about him, that "if we can take the Enemy's store ship† and burn their vessells which may be done & at the same time Ravage Menis . . . I suppose five or six hundred enought for that service." The Governor, however, counted upon the return of the deserters before the sailing of the fleet, as appears by the following letter to Leverett, which also contains the only sketch of the proposed campaign that has been discovered: —

"Boston 26th July 1707

Dear S^r:

I thank your care & particularity in your Letters & hope your People will be in a better frame when they see the Desertars returned, & truly S^r there is not one of them that is seen here, but is asham'd of his Wickedness & folly, but to restore them to that ground from whence they so basely came away in ‡ a just mortification, without which you know in the schools there is no sincere repentance; it is also necessary to destroy their Grain & the rest of the Cattle, & if the Galley & halfe Galley have Carried away One hundred of their best men, I do not doubt but Twenty day's will give you the rest, especially if you shew your Mortars, which will do more to Scare them than your Cannon. —

And if Menes & Secanecto be after destroyed, Mons^r must give them his own flesh to Eate next Winter

You Observed a more than Ordinary Mortification in Colo^d March, It was on Acco^t of my Letters I Suppose, wherein I Dealt very plainly wth him, but the bane of all my Affairs is the pride, & ill Temper that went out of Ipswich, & their horrible Lett^r to March to Draw off, after the matter had been regularly debated & Concluded at a Council, Two houres before —

You are in no danger of Supporting y^orselves on shoar wth halfe your men, but I believe I shall give you them all in a few days, & the returning men the best, . . . I heartily wish your health & y^e Exercise of y^or Govern^t over the forces, It is now to be Tried who shall be Master. I am

S^r Your humble Serv^t

J DUDLEY

If you cannot well Land on both sides take the starboard side, which brings you to the ford of Allins Mill, where Colo^d March was the last time, & if you possess that ground & Some of your sloops come up you will well enough by them & a few Whale boats Govern the River on tother side

Since you Resolve to be at Pesamaquady I hope You may have a Booty of y^e People as well as the Goods there —

I Pray that the Banks at Port Royal as well as Menes may be Cutt in the old Creeks, the Original passage of the Water, & then you may Expect the Tide will do what you desire

I am S^r Your Serv^t

J: DUDLEY." — *Mass.*

Archives, vol. 71, p. 370.

Barnard's statement that the fleet arrived at Passamaquoddy on the thirtieth is not contradicted by any other authority. § By Dudley's letter it appears that the fleet was to stop at that place on the way, and there capture prisoners as well as take booty. That the fleet was still at Passamaquoddy on the fifth of August appears by the date of letters || written thence to Governor Cranston by his brother and Lieutenant-Colonel Wanton. That the soldiers had a hostile encounter with the inhabitants and brought off prisoners and plunder appears by the proceedings at Boston relative to the French captive Gourdeau and the compensation granted to him from the province treasury for his peltry; ¶ and the

* *Mass. Archives, vol. 51, p. 172.*

† That is, the valuable prize brought into Port Royal by her French captors since the English forces retired. More will be said of this vessel hereafter.

‡ *Sic*: is.

§ Hutchinson (*Hist. of Mass., ed. 1767, vol. 2, p. 163*) says "They stopped at Passimaquadi, about the 7th of August." Possibly the printer omitted the word "until," before "about."

|| *Mass. Archives, vol. 71, p. 388.*

¶ "Sept. 10, 1707. Elisha Hutchinson Esq^r acquainting his Excell^y and the Board, that in the late Expedition to Nova Scotia, M^r Gourdeau being taken prisoner at Passamaquada, and seeing he must be brought away, informed where he had hid away a Quantity of Peltry among the Bushes, supposing the Indians might probably find it in his absence, Capt^d Alden was sent with his Boat, and brought it on Board. It being now in his keeping.

Ordered. That the s^d Peltry &c^a be put into the hands of M^r Commissary General.

J: DUDLEY." — *Exec-*

utive Records of the Council, vol. 4, p. 463.

"Sept. 18, 1707. Ordered. That M^r Commissary General make sale, and dispose of to the best advantage the Peltry &c^a in his hands, which was belonging to M^r Gourdeau Prisoner of War, found by his Information, and out of the produce thereof to pay the debt owing by the s^d Gourdeau to the Province, and to advance the value of Twenty pounds for his present necessary clothing and support, and to keep the remainder in hand, to be employed at the direction of the Board.

J: DUDLEY." — *Ibid.*

petition of Hugh Pike, which is the foundation of chapter 54, *post*, shows that the wounds for which he was granted an allowance by that chapter were received at Passamaquoddy.

The taking up of so many armed vessels for the expedition deprived the fisheries of their ordinary protection of a cruiser appointed by the government. In this emergency certain merchants of Salem, Marblehead, and vicinity, engaged in the fishery trade, were permitted, upon their application, to fit out an armed vessel for that purpose, at their own charge, the commander of which was regularly commissioned and received formal instructions from the Governor.*

While Governor Dudley evidently expected that all the deserters would be returned before the fleet sailed he was impatient of delay; nor was he satisfied with adding to this accession the reinforcements sent in the *Ruth Frigate*. His purpose seems to have been, first, promptly to effect a successful landing and begin a siege at Port Royal, and then, in order to strengthen the forces sent in advance, and to improve the morale of both officers and men, to join to the besiegers a considerable body of soldiers, under active officers. These in the mean time he was to make every endeavor to enlist and send forward at the earliest opportunity. Besides those new recruits which he hoped to enlist within his own jurisdiction he turned to Connecticut and Rhode Island for auxiliaries. His expectation of aid from the former colony, however, must have been weakened by his knowledge that the Indian enemy, taking advantage of the absence from the province of the forces sent eastward, drawn in part from the frontiers, were renewing their savage attacks † upon the

* The following are copies of the commission and instructions:—

"Joseph Dudley Esq: Cap: Genl: & Gov: in Chief in and over Her Maj^{ty} Province of the Massachussetts Bay in N. Engl^d and Vice-Admiral of the same.

To Cap^t W^m Pickering. Greeting.

Upon Application to me made by major Steph^s Sewall and Cap^t Edw. Brattle for themselves and others concern'd in the Fishery, for Licence, at their own charge to arme man and Equip in warlike manner the

Fishing Vessells design'd to make Voyages in the Eastern parts at and about Cape Sables, ag^t y^e Insults of Her Maj^{ty} Enemy's the French and y^e Indian Enemy & Rebels.

By virtue of the Power and Authority in and by Her Maj^{ty} Royal Commission to me Granted, I do, by these presents, Reposing Special Trust and Confidence in yo^r Loyalty courage & good Conduct, Licence you to arme and Equip the said Vessell accordingly, and do constitute & Appoint you the s^d W^m Pickering to be Captain of y^e s^d and of y^e Comp^{ts} to her belonging, as well Saylorss as Souldiers, and authorize you wth your s^d Vessell & men to war fight Kill and Exercise all Acts of Hostility upon and against her maj^{ty} said Enemy's & Rebels, their Vessells Boates and Goods to take and make prize of. Willing you to keep yo^r men in good order and Discipline; Hereby Commanding them to obey you as their Captain; And you are to observe and follow the orders and Instructions herewith given you and such other orders as you shall receive from my Selfe for Her Maj^{ty} Service—This Commission to continue in force by the space of four months next coming, If the War with france so long last. Given under my hand and Seal at armes at Boston the first day of August.

By his Ex^{ty} Command

Sign'd. J DUDLEY.

1: ADDINGTON Sec^y."—*Mass. Archives*, vol. 63, p. 91.

"Province of the Mass. Bay.

By his Excellency the Govern^r &c

Instructions to be Observed by Captain William Pickerin Commander of the.

In Pursuance of the Commission given you, to arme man and Equip in warlike manner the

Guard the Fishing Vessells, design'd to make Voyages in the Eastern parts at and about Cape Sables, against the Insults of Her Maj^{ty} Enemy's the French and the Indian Enemy & Rebels.

I do hereby permit you to Entertain on board yo^r s^d Vessell, such Saylorss and Souldiers to the number of Twenty five or thirty (not otherwise engaged) that shall voluntarily Enter themselves & agree to [sic] Serve under yo^r Command, whome you are to Govern well.

You are from time to time to take under your care and convoy the Fishing Vessells, in a Fleet, both out and home and attend them on the Fishing Grounds and in the harbours; Keeping them so near together as their Fishing may allow, that you may be the better able to cover and Protect them who are to be perfectly under your Direction.

And in case you meet with or be attack'd by any of the Enemy, you may, upon such Exigence, take a man out of Each Vessell, further to reinforce you.

You are to take Special care in the Executing of your Commission to observe Her Maj^{ty} Laws, and Royal Proclamation relating to Sea Commissions and Letters of Marque; and not to Infringe or breake any of them And to give me advise of all occurrences.

Given under my hand at Boston the first day of August. 1707. In the Sixth year of Her Maj^{ty} Relgn^t.

Sign'd J DUDLEY."—*Ibid.*,

p. 90.

† The assaults of the savages begun in May and June were continued in July, and were not confined to the outlying settlements, but were also boldly made upon stragglers from the fleet while lying at Casco, as appears by the following items:—

"July 8, 1707. John Bunker & Ichabod Rawlins (both of Dover) Going with a Cart from L^d Zeeb: Fields Gar: [Field's garrison was between Cochecho and Oyster River. He was grandson of the Darby Field who visited the White Mountains in 1642. "Field's Plains" is still a local name in Dover.]—Note by the editor, *Doctor Quint.*] to James Bunkers for a Loom, were assailed by many Indians, & both slain. The enemy (supposed 20 or 30 in num.) slaughtered many Cattel for the Indians (at same time) to the number of 15 or more."—*Pike's Journal*, p. 145.

"Captain Sumersby pursued with his troop and recovered the contents of the cart."—*Belknap's Hist. of New Hampshire*, ed. 1792, vol. I., p. 344.

"July 11. A number of boats went out this mornng to catch lobsters and plaice among the Islands, which are many; I went among the rest. One of the boats went near to the shore of one Island, and we, who were next to them, were suddenly alarmed with the firing of about twenty small arms, and looking to the Island whence the noise came, we saw about forty of the Indians smulping three of the men; the other two men that were in the boat they took prisoners. We were so near to the enemy that their shot would have reached us; but they all immediately betook themselves to their canoes (being about 150 that lay hid in the bushes,) and paddled away for life. The army took the alarm, and in a few minutes the ships' boats, with several hundred men, and General March at the head of them, were upon the full chase after the Indians, but could not come up with them. I look upon this as an instance of the care of Divine Providence, and bless God who

borders of Massachusetts and New Hampshire. In such an emergency the detail of any considerable contingent from Connecticut could hardly be expected to meet the cordial approval of the prudent Governor of that colony who had had no voice in starting the enterprise in which Dudley had thus far failed. However, before the middle of July Dudley addressed Governor Winthrop, as follows:—

“BOSTON, 14th July 1707.

SR,—Every body tells you my disaster, in the forces coming from Port Royal without order. I have with great difficulty reinforced them and they are returning again to that ground, where I mean to have them lye fifty days at least; in which time if I might see two or three hundred men from yo^r Governmt it would very much strengthen and encourage the service, and probably put that place out of any future power to disturbe us, in which your people have equal benefit. The Indians are everywhere upon me in small party's, and last of all, six days past, march'd near one hundred in a body from the back of Piscataqu westward. They may with others fall on Hampshire very probably. I desire you will direct a good number to be ready for their defence, which is truly your own frontier. I aske pardon for writing in o^r Secretary's hand; I have a fit of the gout upon me, which prevents me with my own hand. Wishing you all health and satisfaction in your affayes, being alwaies Sf, your very humble servant,

J. DUDLEY.” — *Win-*

throp Papers, part V., p. 392.

No reply to this letter has been found; but on the fourth of August Dudley thus renewed his application to Winthrop:—

“BOSTON, August 4th 1707.

SR,—The expedition eastward against the French & Indians, consisting of the forces of this Province & Rhode Island, is yet continued and reinforced; and I hope to hear every hour that they are again possessed of the ground before the fort at Port Royal, though they are not so strong as they were in the first motion thither. And if their health and temper continue, I shall keep them there sometime, & have therefore thought fit once more to give you notice thereof, and that there is yet an opportunity for her Maty's good subjects of yo^r Governmt to do their share in this so honourable a service. Two or three hundred men for a month or six weeks will be a very little addition to what charge Connecticut ought to be at in joyn^t wth this Governmt, as her Maty's most gracious letters direct. I shall be glad to have that party that is abroad well reinforc^d & encourag^d, and have no doubt but, with just assistance, by the favour of God we shall obtayn against the enemy what we desire. I am Sf yo^r very humble serv^t!

J. DUDLEY.” — *Ibid.*,

p. 394.

Winthrop's reply, dated the fourteenth, was as follows:—

“SR,—Yo^r Excellency's letter of July 16th was taken out of M^r Cowell's window by a traveller coming this way, & seeing it directed for her Maj^y service, brought it to me, & I might not otherwise have had this opportunity to thank you for it & the intimation therein respecting the Moheag Indians that have been with you. . . . Yo^r Excell^y's letter of the 4th instant I have allsoe received, & perceive yo^r forces might then be possess^d of their former lodgments at Port Royall. Their resolution, good temper & every thing seemes now to encourag^e the designe, and yo^r succees not to be doubted. What you desire of three hundred men to strengthen yo^r forces seemes to me impracticable, & not possible for us to overtake them in tyme to doe her Majesty service, concluding before this houre the fort & all that country has submitted to her Maj^y pleasure. I am very sensible we are unhapy not to share in the hon^r of that great enterprize, but wee can't help it. I have not heard very lately from our forces that serve in yo^r county of Hampshire, but hope all is safe in that quarter. It was with great difficul^ty that wee spared them at this tyme of our harvest, weh is yo^r granary. Pray forgive yo^r kinsman this long scrable and accept my good wishes. I am Yo^r very humble serv^t!

J: W.” — *Ibid.*

The apparent candor and good will shown in this letter, however they might have shielded Winthrop from any charge of want of sympathy and of desire to coöperate in Dudley's schemes, could not have concealed from the latter the writer's exquisite sarcasm. For the time being, it ended their correspondence * upon the subject of the conquest of Acadia.

Dudley's application to Rhode Island was received with cordial interest, and promptly responded to. Governor Cranston, to whom Dudley had expressed his gratitude in most flattering terms, appears to have been sincerely anxious for Dudley's success, to have thoroughly approved of his plans, to have warmly sympathized in his misfortune and to

preserved me from falling into the hands of those savages.” — *Barnard's Narrative*. See footnote on p. 689, *ante*.

According to Rev. Peter Whitney, Jonathan White was killed by the Indians on the sixteenth of July near Lancaster. — *History of Worcester County (under Lancaster)*, p. 44.

“July 22, 1707. Two brothers of the Gilmans [Stephen and Jacob] travelling from Kingstown to Exiter, were assailed by 7 Indians, both yo^r horses were shot under y^em, but the men escaped, one back to K: the other to Ex: Laus Deo.” — *Pik's Journal*, p. 145.

“Piscataqua, July 25th On Tuesday the 23rd Instant, Stephen Gilman, and Jacob his Brother, were ambusht by 8 Indians as they were riding between Exeter and Kingston, who shot their Horses under them; the first having his Horse dead, was in great danger of being slain by one or two of the Enemy that hasted towards him; but perceiving he had a Pistol they started back, so that he got clear; the other Brother was shot at with 7 bullets which grazed his belly, and carried away part of his Cloaths & Shirt without any other damage; and before he had rid 30 Rod his Horse fail'd him, which the Enemy observing ran instantly to him in expectation of T'rinniph, but having his Gun ready, he bid them withdraw on their Peril: Had either of the Brothers discharged they might each of them have kill'd an Indian, but indangered their own Lives, who both got safe to their Habitations.” — *Boston News-Letter*, No. 171.

* Perhaps there was no further correspondence between them later, since Winthrop died on the twenty-fifth of November following.

have striven to aid him as far as possible. In return, Dudley paid him unusual deference, and acted upon his advice. On the first of August Cranston wrote as follows:—

“Rhoad Island August 1th 1707

Sr

I haue had two Letters ffrom Lt. Colonel Wanton since his arrivall at casco Bay, the Latter dated the 24th of Last moneth, by wch I am inform'd of the great discontent and disorder in the army, and there aversness to proceed to port Royall, he also informes me that the army is much weakened by desertion, and that the consideration thereof makes him fearfull what the Issue may be, and is very doubtfull of there good success; I cannot understand from whence there Great discontent and disorder doth arise but am satisfied that it must be a great Exercise & trouble to yor Excellency in perticular, and I do Assure you I can not but sympathize with you therein, and shall be much Trobled should yor Excellencys Just and Hon^{ble} Indevors faill of success (I being partly concernd therein) for the Hon^r of her Maj^{tye} and Good of the cuntry: I shall therefore presume to give yor Excellency my advice and oppinion, (if the fleet and Army do proceed and do take there ground againe before the foart) that vpon the first notification thereof yor Excellency do Reinforce them with with * 3 or 4. hundred fresh men vnder a brisk comand; the arrivall of wch will be a great heartning, and incouragement to the whole army and a discouragement and dispiriting to the enemy—

and I do believe the matter will not be difficult, for when the cuntry is satisfied that the army has Taken there ground againe, and will be Exposed to the bronts of the enemy, every one that hath any friend or Relation there will be willing & forward to Assist and Relieve them (which other ways would not haue Expos'd them selues, And if I may be so bold with your Excellency without offence, I shall Reco^mend Major W^m Wanton as a sutable man for a comand; he being a person of Conrage and Resolution (not but that yor Excellency has worthy men enough) but he is spirited for the designe, and I do believe would Expose himselfe for the Hon^r of his cuntry and if he may be Honrd with yor Excellency commission for a colonells place, I presume I can prevaile with him to Except Thereof; wch I conelde will not be greivous to yor owne people, he being born and Bred in yor Excellencys Province tho: not an inhabitant there at present—

I haue had some discourse this day wth Collo^{ll} Curch—who approues of my propositions as to the Reinforcement, but semes inclinable, to Expose him selfe, wch I fear his Crasy and aged body will not be capable to beare, besids I Question whether the people would. be so forward to List vnder him as they would vnder a younger man that is capable to vnder go hard ships and Travell.—

I beg yor Excellency pardon for my boldness in Taking this Liberty with you: and submit, to yor Excellency's Great Wisdome, and discretion—

and am—yor obliged Humble serv^t—

SAM^{LL} CRANSTON.” — *Mass.*

Archives, vol. 71, p. 373.

To this Dudley made the following reply:—

“Boston. 4^o August. 1707./.

Sr

I am very much obliged to you in the whole affayr of port royall & very perticularly for your Last Letter of the first Instant the winds have been such that the fleet must needs be arrived there, & I have directed the Brigantine scout to Give me notice thereof presently which I shall express to you as soon as I can, and the general assembly of this province is to meet by prorogation upon wednesday the thirteenth Instant with whose advice I shall determine any recruits thither, but have seen so much of their good temper and resolution in this matter that I expect their ready Consent to any thing in their power,

In the mean time I heartly Thank your advice refering to Major wanton, & if he pleases with your direction & assistance to see what voluniteers can be had in your government as well as the masachusetts near you, & go forward to Incourage them, I shall with all possible speed dispatch the Consideration with the Generall assembly & upon our resolve I shall send a Colonels Comission for Major wanton to Comand them & heartly thank his readiness to visit his Brother for whom I have a very perticular regard.

I will miss no time to advise you of every occerent in this affayr & am Sr
your most faithfull Humble serv^t

J. DUDLEY

To Governour Cranston.” — *Ibid., p. 376.*

Cranston's letter of the first of August and the draught of Dudley's reply thereto and of his last letter to Winthrop were duly laid before the Council. On the eighth, Cranston wrote again as follows:—

“Rhoad Island August 8th 1707 —

Sr

I haue Your Excellencys of the 4th enrrant, & am Glad to heare that the fleet is sail'd from casco bay, and of the favorable wind that did attend them vpon there departure, I pray God they may be further favoured with good success vpon there arrivall—

I heartly thank Your Excellency for the favorable Reception of my Last Letter and am more then ordinary obliged, that my advice Relating, Major Wanton was so accepttable to yor Excellency; as to Hon^r Him with the tender of your Comission ffor a Colonells place.

I haue communicated the whole matter to him, who is very thankfull to your Excellency for the Regard you haue for his brother, and the Good Esteem you haue of him selfe; And for the Hon^r of her Maj^{tye} and Good of his cuntry is Willing to Except, your Excellency comission, provided there be a sutable number of Voluntiers present them selues, and desires that, he may be Admitted, to fitt a sloop of his owne heere, att yor provincls Charge; for his owne accomodation and transportation of such forces as will

present in these parts. You are pleased to advize that Major Wanton with my direction and Assistance do see what volunteers can be had in this Government, as well as the Massachusetts & S^tas to what Relates to this Govern^t there shall be nothing wanting that I can do, to promote the good of the cause, but what Relates to Yor Province, I am of opinion Your Excellency's order to the Colonels of the severall Countyes would be most proper, If your Excellency did communicate the Matter to Colonel Windthrop Gov^r of Connecticut, and Request his assistance in the sending such volunteers as would present in Newlondon & Stoning towne, I am apt to believe severall brisk men there would be very forward to serve vnder Major Wanton —

our place is so drained in fitting out Lt. Collonell Wanton that wee are very scarce of all sorts of Warlike stores and P^ticularly small Armes, the w^{ch} should there be occasion must be supplied by yor province And am Obligated to Repeat, that I have no Authority to put this Colony to any further Charge & Expence, having already done to the Extent of my Power, so that what ever is further done must be vpon yor provincials Establishment, w^{ch} I desire to be further Assured of, and that I may be favoured with a line or two from Your Excellency Relating the whole matter by the next post. will further Oblige

Your most Humble & obliged servant —

SAM^{LL} CRANSTON." — *Ibid.*,

p. 577.

The pursuit and arrest of the deserters continued after the departure of the fleet, but the Governor deferred sending them forward until he could get from the Legislature further advice or authority. He therefore issued writs for a session to be held on the thirteenth of August, on which day the Speaker and the House being with the Council, in the council chamber, in response to his message, he made to them the following speech: —

"Gentlemen,

I had not troubled you with a Session at this Time, but that it was reasonable you should know the present State of the forces Eastward, And necessary that I should have your advice in so troublesome an affair —

The Expedition was entred upon at your Instance and advice, And the best officers & Souldiers in all Parts of the Province taken into the Service, the first orders & Instructions to the Commanders of the Forces, Seen & approved by a Session of the Assembly holden for that Service

And the Shippes of Warr & Transports very soon after arrived in the Bay of Port Royall, and the forces happily Landed & possessed themselves of the Ground near that Fort, of the houses, & Cattle of the Inhabitants, but very soon after, without any Direction from mee, Embarked again, left the Shoar, & Contrary to their orders; without visiting the other Settlements of the French upon that Coast Directed their Transports to make the best of their way home to my very great Surprise, which with all Industry with the advice of Her Maj^{ties} Council I have laboured to prevent And Therefore commanded the fleet to Stop at Casco-bay, And those that were gotten hither by all possible means I have arrested and returned, And have reinforced them with another Ship, And near an hundred men as I was desired by the Last Sessions of the Assembly, And being Sensible that the Command proved too weak, I have Sent a Superiour Command by Commission to three Gentlemen of approved Loyalty & Courage, if possible to Inspire the Forces with a better temper of Courage & obedience, And they are again returning to the french side of the bay of fundee,

Mr Secretary will communicate to you the Letters & Papers that have passed between me & The Commanders from Time to time Since their Departure, which will Set the whole matter in a True Light, And I Desire you will thereupon give me your advice what further Commands are necessary that we may not fail of our Duty to her Majesty nor dishonour our Selves in so great a Service as is before us.

I Desire you not to Divert to any other business, The proper Season of The year will come for the Publick occasions of The Province, before which Time, with your good advice & resolves this affair may have A Successfull and happy Issue." — *Ibid.*, vol. 108, p. 53.

The Governor then "directed the Secretary being accompanied by Simeon Stoddard Esq^r to carry down the Orders, Letters & Papers referring to the Expedition to Nova Scotia & L^d Acadie, & to dispose them into their proper Order, to be read in the House, & left with them for their further Perusal & Consideration, If desired; W^{ch} was accordingly attended."*

A ship of the royal navy, which, as early as the twenty-fifth of July, had arrived at Boston, having conveyed from Lisbon a fleet bound to Piscataqua and Boston, was in port when the General Court assembled. This was the Swallow (or Swallow's) Prize,† commanded by Captain George Paddon.‡ To Dndley her arrival seemed opportune for his purpose, and, accordingly, on the second day of the session, he "sent a Message to the House by Coll: Hathorne, Coll: Phillips, Mr Sergeant & Mr Hutchinson, That

* Council Records, vol. VIII, p. 311.

† Later on it will appear that in the French accounts this ship was called "l'Annibal" or "the Hannibal." There are two plausible conjectures in explanation of this discrepancy; one is, that her true name was Hironelle (translated the Swallow, and called the Swallow's Prize, by her English captors), converted into l'Annibal by a typographical error; and the other is, that Annibal was the original name of the vessel which Paddon commanded, but which, having been captured by the Swallow, was described as her prize.

‡ This officer, who, in 1693, was appointed second lieutenant of the Archangel, a hired ship of war of forty-eight guns, which, that year, conveyed a fleet to Virginia, was commander of the Vesuvius fire-ship in 1703, in which he was wrecked off Spithead in the great storm of the twenty-sixth of November. His name appears again in British-American history in 1711, when he commanded the Windsor, of sixty guns, on the New-England station. On this ship he captured many prizes, including the Thetis, a French man-of-war of forty-two guns. By July 22 of that year he was transferred to the Edgar, the flagship of Sir Hovenden Walker's unfortunate expedition against Quebec. For his conduct in that expedition he was dismissed the service. Later he entered the navy of Peter the Great and is said to have died in Russia early in 1717.

he having communicated to them in his Speech yesterday, & by the Letters & Papers from the Forces in Nova Scotia &c now before them, the Posture of that Affair, If the House had thoughts of Looking forward & Making a Reinforcement of them, It is necessary to be very expeditious, the Season demanding it, Two Hundred Men might serve, & her Majesties Ship the Swallows Prize, now in Port being in Readiness, they might be transported in her, And also intimated to the House the Method he proposed for Raising the Men.*

The representatives forthwith passed and sent to the Council, for concurrence, the order which constitutes this chapter.

As soon as Dudley had thus procured the advice of, and authority from, the Legislature, to carry out his plans for reinforcing the little army which more than two weeks before had sailed for Port Royal, he communicated the good news to Governor Cranston in the following letter:—

“Boston 14 August 1707.

Sr

The general assembly of this province mett yesterday and have had Consideration of the affayr of the forces eastward to whom I have also communicated your Letters refering to Colonel Wanton & a number of Volunteers from your Government & they are very sensible of your readiness in the publick service, & have desired mee to Entertayn Collonell Wanton and what number of Volunteers he can bring from road Island into the service & pay of this province,

& Thereupon I pray you with all possible Expedition to Direct him to beat up his drums for Volunteers on your Island & other parts of your Government And also on Saconet side or any other part of this Govement near you, where I hope he will obtayn one hundred men in the whole —

I will the next post send him Commission for Colone! of the Auxiliaries now to be sent & I shall put on board 120 here forthwith & Hope he may be ready to sayle the begining of the week, you must get your men armed and fitted as well as you can they shall have ammunition upon the place for the service there & what els is necessary, I have directed The Express messenger to stay with you twenty four hours that you may make some Entrance into the raising of Men of which he may bring the Intelligence, if after that there be any need of an Express I pray you to send it to Colone! Byfield who will forward it at your desire.

I hope to have the Queens frigget lately arrived here ready to sayle by Tuseday next with the 120 men from here besides his Complement who will serue us at a necessity tho not Constantly on shoar our forces have been Long out and are too Impatient of being reinforced by these Auxiliaries. & I pray you to make all possible Hast Let Colone! Wanton Come upon his own sloop, she is allowed to be upon the pay of this province as well as the forces with him./

We are very short here of provisions & what ever bread pease & flesh you take on board for the victualing will best please your own men & shall be allowed by the Comissaries here

Colone! Wanton shall have letters from the Comissary Generall by the post —/

I am sr

your very humble sr

J D. * — *Ibid.*,

vol. 71, p. 383.

To this letter Cranston replied as follows:—

“Rhoad Island 16th of August 1707.

Sr

Your Excellency of the 14th enrrant, by yor Express Messenger came to my hands Last night, with two other Letters one ffrom Lt Collonell Wanton the other from my Brother, dated at Passamaquada, the 5 Instant, by wch I am inform'd of the continuance of the great confusion and discontent in the Army, and perticulerly among the officers, and that Lt Collonell Wanton was dangerously Sick with a flux, which had then held him 9 days — The wch news, is no Small discouragement to our People but a great grieff and Trouble to my Selfe, and causes me to Suspect that Your Excellency Endeavors will not haue that Success as I heartily desired, notwithstanding I Shall not be Backward in doing my utmost indevors to dispatch Coll — Wanton according to your Request, and Shall Submit to the will of god, to whome my prayers Shall be directed to change the hearts of the disobedient and gine courage and Strength to the faint & Weake that they may go on Chearfully and unanimously for the Honor of her majtye and Credite of the Cuntry which Lyes at Stake.

I have this day caused the drums to beat in Newport for volunteers to List vnder Coll — Wanton but as yett, no appearance,

I have dispatched Collon^{ll} Winton to Little Comton & Tiver towne Signifying yor Excellencyes pleasur that he Raise Such volunteers there as will present, I have also Sent two of our Capt^s to providence and Narraganset for the Same end, and Shall do what is further Needfull in S^d Concerne: And hope in two or three days to giue you Excellency a better acct^t —

I must once more Remind you that if a numbr of volunteers presents wee cannot Supply them with Small Armes, wch Such men Generally wants, mr Roberts of Boston merch^t informed this day that he Knew of 100 Spare armes in one place there I hope your Excellency will not forget this article — for Collonell Wanton will not care to proceed with men unarmed, he Requests the favour of yor Excellency that he may Nominate the officers for the forces to be Rais'd here, and that you will Send a blank Commission for a captaine.

I am your most obliged Humble Servant—

SAM^l CRANSTON. — *Ibid.*,

p. 388.

On the fifteenth the representatives, with the design to quiet any apprehensions among the soldiers that they were to remain at Port Royal to garrison the fort in case of its cap-

* Council Records, vol. VIII., p. 311.

ture, passed the order which constitutes chapter 28, *post*. Thereupon the Governor, evidently to convey to the commissioners at Port Royal this vote of advice, "prepared the Draught of a Letter to the Commissioners in Command of the Forces at Nova Scotia &c, Which he Read at the Board, And Directed the Secretary to communicate it to the House of Representatives."*

Apparently this letter (not found) was committed to Captain Paddon to be by him delivered to the commissioners, and was returned by him to Dudley to be again submitted to the Council, after which, presumably, it was redelivered to Paddon to go with the letters of later date.

On the sixteenth, in order to furnish the Rhode Island auxiliaries with small arms in accordance with Governor Cranston's suggestion, and to provide for the subsistence of all the forces for four weeks' service beyond the time already fixed, the Assembly passed the order which constitutes chapter 32, *post*. The additional stores authorized by the same order, very likely, included a supply of lead, the need of which the Commissary-General had represented, and two tons of which, recently imported, he had been empowered by an order in Council, on the seventh,† to purchase, although chapter 25 was then in force.

On the eighteenth the Governor, in compliance with the advice of the Assembly as given in the present chapter, addressed the following order to Paddon:—

"Boston. 18th August. 1707./.

St/.

The Queens Service necessarily demanding to show a further Sea and Land Force, than what is at present, in the parts of Nova Scotia and L'accadie.

I Direct and order you, with the first fair wind, to Saily with Her Matys Ship under your Command, into the Bay of Fundy and there Joyne Her Matys Ship Deptford, Captⁿ Charles Stucley Commander, who you will find with the fleet, at Port Royal, or parts near adjacent. And attend the orders of Captain Stucley for the Service, whils't you continue there and for your return.

If you can bear Sixty or Seventy Souldiers upon your Ship, Mr Commissary General will Treat with you for their victualling They must be Landed at the Direction of the Commanding officers of the Forces there to Serve on shoar.—

I heartily Wish you a good Voyage and am.

Your humble Serv^t

To Captain George Paddon Commander

of Her Matys Ship Swallows Prize."—*Ibid.*, p. 389.

J DUDLEY.

Up to the date of the above order to Paddon, Dudley appears to have received no tidings of the progress and condition of the expedition save of its arrival at Passamaquoddy and of the continuance there of disaffection among the soldiers. Upon their arrival at that place the commissioners had found it necessary to interpose their authority; and March was superseded ‡ by Wainwright, as general-in-chief. The fleet neglecting to take advantage of "a fine, fair, northwest wind," which would have brought them to their ultimate destination several days earlier, reached Port Royal on Sunday, the tenth, after spending more than a week at Passamaquoddy in a petty attack upon the French traders and settlers there, some of whom they made prisoners, and, with them, seized and carried away an inconsiderable stock of peltry, etc. During the interval between the departure from Port Royal of the former expedition and the arrival of the commissioners, a privateer had brought in to de Subercase a fresh stock of provisions,§ and he had also received the assistance of M. de Bonaventure, the able commander of a French frigate, the crew of which were sent ashore to reinforce the garrison. By a privateer which arrived some time before the fleet, notice had been given him that the English were preparing to return with a stronger force for the conquest of Acadia, and he had begun to prepare for them, and had posted sentinels to watch for their approach. The fleet entered the channel about ten o'clock in the forenoon, coming to anchor, in fine order, early in the afternoon. On the following day the soldiers debarked, and landed, as Barnard says, "in an orchard," more than two miles below the fort, on the opposite side of the river, whence they immediately marched to a point less than a mile above, where they took possession of some unoccupied houses.

This place of landing was not their choice. Taking advantage of their delay in debarking, and anticipating their movements, de Subercase || had forced them to deviate from their original plan to land at an advantageous spot on the other side of the river.

The position to which the English had marched was within musket shot of the fort, so that it was easy for the garrison to prevent them from crossing; and at another point opposite the fort they were forced, by a vigorous discharge of cannon and musketry, to desist from throwing up earthworks for mounting their guns and mortars. Abandoning this attempt, therefore, they proceeded to land their stores and ammunition; and they had "established their quarters" at the landing place; but, on the twelfth, those who had occupied the point above were forced, by a constant fire of musketry from the fort, to fall back to their camp, where they spent the day in intrenching.

On the thirteenth occurred a hostile encounter between the English and their adversaries,

* Council Records, vol VIII., p. 313.

† Executive Records of the Council, vol. 4, p. 450.

‡ Hutchinson, who had access to documents not now known to be in existence, states that March resigned, his spirit being "broke and his health affected, so that, when the disposition was making for landing the army, he declared himself incapable of acting and the command was given to Wainwright, the next officer."—*Hist. of Mass.*, ed. 1767, vol. 2, p. 169.

§ A privateer from St. Domingo brought in two English prizes, one of which contained three hundred and forty barrels of flour, lard, ham, and butter.—French "Relation."

|| He had, moreover, upon the first notice of the approach of the fleet, thrown up new intrenchments, and called to the defence of the fort the surrounding inhabitants for a distance of several miles, giving them, at the same time, ample opportunity to secrete their goods and live stock from the English.

which is differently described * by the several writers, French and English, who have professed to narrate the history of the expedition. The following extract from a letter, dated the fourteenth of August, by Colonel Wainwright to the commissioners, appears, upon the whole, to be the most trustworthy account of the affair, and since it also gives a graphic picture of the miserable condition of the English forces, it has not been deemed necessary to abridge it narrowly:—

“Our not recovering the intended ground on the opposite side is a mighty advantage to the enemy, in that they have opportunity, and are improving it, for casting up trenches in the very place where we designed to land, and draw up our small forces. Yesterday, the French, about eight of the clock forenoon, on the fort point, with a small party of St. John’s Indians, began to fire on our river guards and so continued until about three afternoon: Then appeared about one hundred Indians and French, upon the same ground, who kept continually firing at us until dark. Several were shot through their cloaths, and one Indian through the thigh. About four in the afternoon, I suffered a number of men, about 40 or 50, to go down to the bank of the river, to cut thatch to cover their tents. All returned well, except nine of Capt. Dimmock’s men, who were led away by one Mansfield, a mad fellow, to the next plantation to get cabbages in a garden, without the leave and against the will of his officer. They were no sooner at their plunder, but they were surrounded by, at least one hundred French and Indians, who in a few minutes killed every one of them, their bodies being mangled in a frightful manner. Our people buried them, and fired twice upon the enemy; on which they were seen to run towards our out guards next the woods, which we immediately strengthened. Indeed, the French have reduced us to the same state to which we reduced them, at our last being at Port-royal; surrounded with enemies and judging it unsafe to proceed on any service without a company of at least one hundred men. I shall now give you a short account of the state of our people, truly, as delivered me by Doctor Ellis. There is a considerable number of them visited with violent fluxes, and although we have things proper to give them, yet dare not do it; others taken with mighty swellings in their throats; others filled with terror at the consideration of a fatal event of the expedition, concluding that, in a short time, there will not be well enough to carry off the sick.

I am distressed to know which way to keep the Indians steady to the service. They protest they will draw off, whatever becomes of them. It is truly astonishing, to behold the miserable posture and temper that most of the army are in, besides the smallness of our number, to be attacked by the enemy which we expect every moment.

I am much disordered in my health by a great cold.† I shall not use it as an argument to be drawn off my self, but, as you are masters of the affair, lay before you the true state of the army which indeed is very deplorable: I should much rejoice to see some of you here, that you might be proper judges of it.

If we had the transports with us, it would be impossible, without a miracle, to recover the ground on the other side, and I believe the French have additional strength every day. In fine, most of the forces are in a distressed state, some in body and some in mind, and the longer they are kept here on the cold ground the longer it will grow upon them, and, I fear, the further we proceed the worse the event. God help us.”—*Hutchinson’s Hist. of Mass., ed. 1767, vol. 2, p. 169.*

On the fifteenth, on which day the soldiers had been successively shelled out of their camp and out of the woods to which they had retired, some new plan of attack upon the fort seems to have been hit upon, or the proposed demonstration against it had been abandoned. Possibly the commissioners ordered Wainwright to destroy the houses and other buildings of the neighboring inhabitants, and to cut the dikes protecting their marshes, and the dams which supplied their mills. By the following letter, which shows the captious spirit in which the General-in-Chief received the orders of his superiors, and also the state of insubordination prevailing in the army, it would seem as if the announcement of the change of plan was joyfully received by the rank and file:—

“Honble Gentlemen

Just as I had written a Letter To yor Honrs. w^{ch} accompanys This, I rec^d yors, p^r Capt James, in which you Propose a peice of Service to be done; and shall be sustain^d wth three days provision in order thereunto. I Thought it Therefore proper To send down a small Party of men: To wait on you To know w^{ch} way, or in what Method wee shall Come at it, and Ammunition w^{ch} we want very much. your orders I shall endeavor in all

* The following extract from the French “Relation,” agreeing, substantially, with Wainwright’s account, apparently refers to the same encounter:—

“Le 24. [that is, the 13th, O. S.] un parti François & de Sauvages passa la Riviere & surprit huit Anglois, dont six furent tuez & deux faits prisonniers, dont l’un étoit premier pilote d’un Vaisseau,” etc.

But Charlevoix thus magnifies and distorts the events:—

“The troops which had landed, remained all the 23d in their camp intrenching, and on the evening of the 23d, seven or eight hundred men were detached, and marched out, preceded by a guard of ten soldiers under a lieutenant. This officer neglected the precautions proper in a wooded and unknown country: he fell into ambush and was killed with eight of his men. The other two were taken and brought to the Governor, who ascertained from them that the enemy had embarked their artillery in two small vessels, so as to run them past the fort under cover of the darkness of the night.

On this information he gave orders to light fires along the river as long as the tide was rising, and this precaution prevented the artillery from passing. On the other hand, the detachment, seeing its advanced guard defeated, durst not advance any further, but returned to camp, with no one left on the 24th on account of the constant alarms raised by the garrison of the fort.”—*Shea’s translation, vol. V., p. 197.*

† Sturley’s apprehension of being “murdered by mosquitoes” at Casco Bay and Wainwright’s mention of his having taken cold must strike the average modern reader of these reports of the chief officers of the expedition, as hardly consistent with the self-forgetfulness which should characterize really brave and patriotic soldiers.

regards to follow, with the greatest Carefulness. I have Communicated Your orders to your officers; As also to the Indians that part that Concerns them, which makes them look with a more Cheerful Countenance; our People think it hard upon them to back their Promise from Time to time: However I Tell them it is their Duty to follow orders, and to Consider the Difficulty of procuring of it any other way: As for Cutting the Banks: It is, thought that Except the Tides suit: it Can be no Damage to the Enemy. And those that are Imprisoned in that service (If your Honors think fit) will be the best Judges in that matter. I shall take Care at all times to give orders Consonant with yours to my self: We shall want falling Axes to Cutt down the house Frames which will not burn I have sent away the most sickly & unserviceable men under the Command of Capt Otis, who sees he is: As sick as they are: Indeed I think he hath been sick in mind: ever since we were ordered into Casco Bay I have also sent under his Care Capt. Stuncley, s three men: and have ordered him to see them on Board the Deptford: Please to Expedite the Promise, that our men may not have the want of it a Plea to draw of: This very minute, Colo Wantons Com^d under ye Command of Lt Cudworth: were all drawn up, fitt for a march To desert. I went Immediately to your Lt. and ask^d, if he Intended to head them Deserters he Told mee no.: I Resolv^d and told them if any man Mov^d one step in that nature I would shoot them down. I also Immediately sent Capt Dimmick & Com^d to bring them in, and To Take away their Arms: Accordingly they Came and after an admonition, they promised *unum et omnes* to be obedient and doe the best service they Can. The Lt^s pleads Innocency in the Contrivance:// The officers give their service, to your Honors.//

Port Royall. Narrows.

I am your humble servant.

Aug^t 15th 1707.

FRANCIS WAINWRIGHT

To Colo Elisha Hutchinson

Colo Pen Townsend

& John Leurett Esq^{rs}. — *Mass. Archives, vol. 51, p. 173.*

On the sixteenth the enemy forced Wainwright to move his camp half a league further down the river. On the seventeenth, according to Charlevoix, de Subercase sent out a detachment which killed three sentinels and obliged the English to decamp a third time, and some small parties were again sent out which harassed them incessantly. In this last encampment they appear to have been protected by their ships and out of the reach of the enemy's shells. For three days they remained in camp, intrenching, evidently for the purpose of holding their position with a comparatively small part of their force while the rest recrossed the river to effect their purpose of ravaging the country, which, on the twentieth or twenty-first, they attempted, and actually went over, protected by the guns of the fleet, beginning their march immediately upon landing. They were, however, soon ambushed, in a piece of woods, by the Baron de St. Castin at the head of a troop of from sixty to one hundred and fifty French and Indians, who fired upon them three volleys, which they received with unexpected intrepidity and seemed resolved to proceed at all hazards, but were seen to fall back, apparently in order to embark on the long boats which were taking some of their companions to the ships. Upon this de Subercase sent the Sieur de la Boularderie with one hundred and fifty men to reinforce St. Castin's troop, and he himself followed with one hundred and twenty men, leaving de Bonaventure in command of the fort while the French forces jointly pursued the English. A desperate conflict ensued in which la Boularderie was wounded and retired from the field. The English, who were retreating towards the shore, rallied under the lead of some of their officers, and the French, in turn, fell back towards the woods, both St. Castin and Saillant having been wounded — the latter mortally. The remnant of the soldiers on shore embarked in great confusion, being pursued by one Granger, "a brave colonist," at the head of Boularderie's detachment. This is the French account, which admits the loss of one killed and eleven wounded; but Barnard thus briefly sums up the doings at Port Royal upon the second expedition: —

"... We went to Port Royal, landed in an orchard, were ambushed, and lost about fourteen men, drove the enemy before us, returned to the orchard, spent a few days there, and then embarked our men; but about 110 French, mostly privateers, with their captain at their head, (who arrived in our absence,) came and lay hid in the thicket of the woods and underbrush, just without a log fence, where Capt. Talbot, with forty men, were placed as a guard to the orchard, and observed till our men were mostly embarked, and the boats were ashore for the last freight, and Capt Talbot called off from the guard, and then they broke in upon the orchard, where were only some of the officers, besides Talbot's guard, and a few others, with myself, and poured in their shot upon us, and killed us seven men. I had a shot brushed my wig, and was mercifully preserved. A few boat-loads of men going off immediately put back, and we soon drove them out of the orchard, killed a few of them, desperately wounded the privateer captain, and after that we all embarked, and returned for Boston as fast as we could. . . ." — *Narrative, p. 195.*

On the twenty-first the ships weighed anchor, dropped down stream, and lay to, outside the basin. On the twenty-second the fleet assembled and proceeded to take in wood and water, and, on Sunday, the twenty-fourth, they sailed for home. In this expedition the English lost, according to Penhallow and Hutchinson, "about sixteen killed and as many more wounded,"* and inflicted upon the enemy, according to Charlevoix, a loss of three killed and fifteen wounded.

* No express statement of the whole number of prisoners taken on either side has been found; but, February 2, 1707-8, the Commissary-General was ordered to take up and cause to be equipped a flag of truce for the exchange of prisoners of war at Port Royal, and on the twenty-third of April following he was ordered to put into a vessel, commanded by Captain Gyles, and bearing a flag of truce, bound to Port Royal to effect the exchange of thirty odd French prisoners to be returned to Port Royal for forty English prisoners exchanged from thence, "provisions for ten weeks subsistence of thirty five Men, and a small Caske of Rum and another of Wine for the refreshment of the said Capt^s Gyles and Company, and the relieve of any persons that may be sick; and two Barrels of Cyder, and twenty pound of Tobacco for the accommodation of Mr^r Gordeau and his sons." — *Executive Records of the Council, vol. 4, p. 565.*

It was not until the twenty-third that Dudley received from his commissioners their report, together with Wainwright's letter of the fifteenth, and, not unlikely, other papers which, as well as the report, have not been found. No other tidings of the progress of the expedition had been received since its departure from Passamaquoddy, and the Governor had no knowledge that, on the very day on which the report came to his hands, the expedition was already embarked for home. Paddon, with his supplies and reinforcements for the expedition, and bearing with him to the commissioners a letter from Dudley, written on the fifteenth, had been detained by contrary winds; but Dudley was still hopeful that the Swallow's Prize would reach Port Royal in season to succor and encourage the dispirited soldiers, who had been so long expecting fresh recruits and additional supplies of provisions. He, therefore, on the same day, communicated to the Council the letters he had received from the commissioners, and his own letter to them already mentioned as having been in Paddon's hands for more than a week; whereupon, at a meeting of the Board, immediately held, "a further letter of Directions and orders to them from his Excellency was drawn up & read; as also a letter to Captⁿ Paddon Commander of Her Majty's Ship Swallows prize, ordered to Port Royal with Recruits, and for further enforcement of the Expedition."*

Two letters of this date, preserved in the state archives, from Dudley to Paddon, and one to the commissioners, are given below. They show that the latter had not concealed from the Governor the desperate state of the army, and also that upon the adopting of a new plan of operations at Port Royal the army had reembarked, evidently to reach a convenient base of operations (perhaps only by crossing the river), but had been discouraged from proceeding further. The letters are as follows:—

"Roxbury 23. Aug^r 1707.

St/

I am extremely troubled at the disorderly Temper of the forces abroad that will bear no Command as well as want of Resolution in the officers, and see plainly that all will fail on the Land part, unless Captain Stuclely and Captain Paddon will devise and adventure something on the sea part, I am sure Southack will do anything in his power And if the Land force should see a good battery made against the lower fort, and they were there beaten from their Guns it would certainly bring them to Terms and our people to better temper.

Consider together and let it be the Honour of the Sea part to do Her Majesty Honour in rooting out that Nest that will destroy us; It shall be all your own and be so represented home, If by any means we take that place. If the discontented and Sick be sent away, and the better men with your recruits be kept there you will have enough, you will find my Commissioners there very rational and steady, pray Advise wth them freely and do your utmost in y^e Service and you shall forever Oblige

your very humble Serv^t—

J DUDLEY.

This Letter is for Cap^t Stuclely and yo^r Selfe.

Capⁿ Paddon." — *Mass.*

Archives, vol. 71, p. 390.

"Boston 23. Aug. 1707

St

I do not know whether you have any letters by the sloop from port royall from Capt. Stuclely, but our men there have been upon the ground and are returned on board again thinking themselves to weak & the weather unseasonable, All that I can now hope for is that your arrival with another frigget & the reinforcement on board you may make some alteration & I pray you will give my very humble service to Captain Stuclely & captain Sutton & thank their great readiness & Vigour in the Landing & if upon Consultation with them & the Gentlemen in Comand it be thought the approach of your ships with the galley may make any battery upon the fort, & staying there may bring them to better termes I wish it might be tryed, & if at the Coming away of the forces their provisions every where being destroyed the Galley & one or both the friggets did stay some short time before the place the supplies from france might Chance to be Interecepted or being hindered Coming would starve the Inhabitants

& if it be so that our men are so sick that they can not, or so obstinate that they will not recover any temper the business Must have an end for the winter will be upon us.

Captain Stuclely will accept this in Comon to himself and you & I pray you to lose no minutes and get to sea

I am st your very humble servt

J DUDLEY

Cap^t Paddon." — *Ibid., p. 391.*

"Boston. 23. Aug^r 1707.

Gent^l./.

Your Letters of the fifteenth Instant are come to hand & have been communicated to the Gent^l of Her Maty's Council, and We have again Considered our Letters of y^e same date with yours which you will receive with these. The Swallows Prize having been detained by contrary winds until now.—

We are very Sensible of what you write referring to Capⁿ Stuclely, Cap^t Sutton and the Marines and I desire you in my Name to give them Thanks for their good Service; And if Cap^t Stuclely and Cap^t Paddon upon their meeting and your Conference wth them can thinke any Service may be done with Her Maty's Ships and the Galley by water and the new forces may give any courage to our Land men we shall be glad; otherwise the return of the whole Force and Fleet must be at last in yo^r Judgment! but you may well enough keep your Station in the Bay and Bason and send a Force of three or four Hundred men to Meuls and Sigenecto where their Corn is now ready for the fire as well as their houses.—

If your men be so ill as they Complain make a Garble of them and send away one or two hundred of them that are Sick, you will save their Victuals and lose no Streight.—

Capt Paddon comes with a very good Inclination Invite him with Capt Stucley and talke of a battery by the Ships, and Let them know that you will venture Southack in the Galley to any Service they shall advise in Company with them.

When you Resolve to return you will do it orderly Letting Captⁿ Stucley give the Sayling orders, and the Forces to Land as near their own parts from Whence they were drawn as they can.

I am.

Yor humble Serv^t.

J DUDLEY.

Colo Hutchinson & other the Commissioners." — *Ibid.*, p. 393.

Meanwhile the act* for the raising and government of soldiers was passed, whereby former acts to prevent the deserting of the frontiers; to provide for the punishing of officers and soldiers; to encourage the prosecution of the Indian enemy and rebels; and to exempt soldiers and seamen in the queen's service from arrest for debt, were revived and continued; and the act for putting the militia in readiness for defence of the province was required to be carefully observed and vigorously prosecuted. Hutchinson being chief justice of the Inferior Court of Common Pleas for Suffolk County, and Townsend an associate justice on the same bench, another act † was passed by which proceedings pending in that Court which had been adjourned to the first Tuesday in September were still further continued to the first Tuesday in October.

Five days after Paddon had sailed ‡ on his voyage to Port Royal, the vessels of the fleet began to arrive, — the first-comer being the sloop Sarah and Hannah, Captain Winkley, bringing Captain Chesley and his company. This vessel came to anchor off Great Island, at the mouth of Piscataqua River, on the twenty-eighth, § on which day Chesley appeared before the council of New Hampshire and "acquainted the Gentlemen of the Council that the Fleet were all joined [going] away, and that their Rendezvous was to be at Nantaskett, &c." ||

On the morning of the first of September the commissioners in command of the forces arrived, ¶ and waited upon the Governor and Council.

March, who had also returned, and had been received with insults and derision by the populace, was spared a long endurance of this mortification by being immediately ordered "to draw Fifty men for the service in rayseing the Fort ** at Winter harbour, and two hundred more for the relieving of Casco, Saco, and Yorkshire." †† The rest of the soldiers, and the officers under the degree of lieutenant, he was ordered to disband, ‡‡ and the rest

* Province Laws, 1707, chapter 5.

† *Ibid.*, chapter 6.

‡ According to the French "Relation" "l'Annibal," the name given by the writer to Paddon's frigate (see foot-note on p. 741, *ante*), was "loaded with supplies and two hundred and forty men for landing," and accompanied by "two brigantines."

§ By the following entry it appears that on the same day Wainwright arrived at Ipswich, and that about the same time the arrival of other vessels of the fleet was reported: —

"Aug. 30, 1707. His Excellency communicated to the Council a Letter from Colo Wainwright, advising of his Landing with his Company at Ipswich on Thursday evening past, and that all the Fleet sail'd from Port Royal homeward on Lordsday the 25th [24th] Instant.

Also a Letter from M^r Secretary Storey at Piscataqua, advising of the arrival of Captⁿ Chesley with his Company in that River, and several of the Fleet being come to Nantaskett." — *Executive Records of the Council*, vol. 4, p. 455.

It seems by another entry, given below, that on the thirtieth the fleet had all come in: —

"Aug. 30, 1707. Ordered. That M^r Commissary General take care for the entertainment of the sick persons on board the Fleet returned from the Eastern expedition at Hull, the wounded Men to be brought up to Boston to be taken care of; other than such as are more lightly ill or wounded, and are desirous to return to their several places, that they be dismiss'd, & allowance made by M^r Commissary for their travail.

J: DUDLEY." — *Ibid.*

¶ Provincial Papers of New Hampshire, vol. II., p. 564.

¶ Of the arrival of the commissioners Wait Winthrop wrote thus to his brother Fitz-John Winthrop: —

"BOSTON, Septber, [1st] 1707.
... Our Port Royall gent^m are this day com hom, & had better never have gon. . . .

Yours,

W. W." — *Win-*

throp Papers, part VI., p. 152.

** "It is plain, the General was not to be impeached there: 'tis well, if it has not Ruined the Governour, as well as the distressed Country, yet we hear the Governour, before the sitting of the said Court [-Martial], gave him an Order for an Advantageous Post at the *East-ward*; to Build a Fort at Saco, because he would not take one at *Port-royal*; as High and Rich a Post, as he was ever capable of." — *The Deplorable State of New England, in Mass. Hist. Soc. Coll., fifth series*, vol. VI., p. 129*.

†† Executive Records of the Council, vol. 4, p. 456.

‡‡ The following is the Governor's order to Colonel March: —

"By his Excell^y the Gov^r

I Direct and order you forthwith to review the Forces under your Command, Except the two Companys of recruit's under Captain Savage and Captain Buckmaster with the Indian Company's, all which I have already discharged.

And first draw the fifty men that I have directed to attend the Service at winter Harbour, such as you judge most proper.

Then draw two hundred more, Deserters, hired men & such as are in debt to be of that number, for the relieving of Casco, Saco and Yorkshire as I shall direct.

Disband all the rest of the Forces, both Souldiers & officers under the Degree of Lieut^{ants}.

Unless any that are restrained for mutiny or Disorder since the Favour of the Proclamation; All the ammunition in the Souldiers hands to be delivered up. —

And put you drawn men on shoar at the Castle.

Let the rest of the Commission Officers attend my further order for their Discharge. —

Given under my hand at Boston the first of September. 1707.

Sign'd.

J DUDLEY

To Colonel John March." — *Mass. Archives*, vol. 71, p. 396.

of the commissioned officers were to attend the Governor's further orders for their discharge.*

The Commissary-General was ordered "to take ont the Provisions, Military & other Stores, and the Platforms out of the Transport Ships and Vessels, & to discharge them, except one Briganteen & an open Sloop to attend the service at Winter harbour."†

On the next day the Governor ordered all the lieutenants except Powell, Wadsworth and Ashcroft, to be dismissed.

On the third the Council advised and consented that the Governor make out a commission to the commissioners and officers above the rank of lieutenant, to the number of fifteen in all, to hold a court-martial "for the hearing and punishing of disorders and offences committed by officers and soldiers" in the late expedition.‡ The commission, which was issued on the fourth, ran as follows:—

"Joseph Dudley Esq^r Captain General and Governor in Chief in and over Her Maty^s Province of the Massachusetts Bay in New England in America. To Colo^s Elisha Hutchinson, Colonel Penn Townsend and John Leverett Esq^s Commissioners in Superiour Command of Her Maty^s Forces on the late Expedition Eastward, to the parts of Nova-Scotia and L'Acadie. L^t Colonel Jonathan Tyng, Major Richard Saltenstal, Major Robert Spnr, Captⁿ Ephraim Savage, Captⁿ Zechariah Tuthill, Captⁿ Josia Chapin, Captⁿ Samuel Moody, Captⁿ Josia Parker, Captⁿ William Tyng, Captⁿ John Hunt, Captⁿ Joshua Lambe and Captⁿ Joseph Buckmaster. Greeting.

By virtue of the Powers and Authority in and by Her Maty^s Royal Charter of the sd^d Province of the Massachusetts Bay to me Granted, and Pursuant to the Directions in the Act or Law of the sd^d Province, Entitled An Act For Punishing of Officers and Souldiers retained in Her Maty^s Service and under pay made and pass'd in the third yeare of Her present Maty^s Reign to Grant Commissions for using and Exercising the Law Martial in time of actual War &c^a as occasion shall necessarily require, and to call and Assemble Courts Martial for the hearing and punishing of offences against the Law martial. Reposeing Special Trust and Confidence in yo^r Loyalty Skill and prudence, I do by these presents, hy and with the Advice and consent of Her Maty^s Council, constitute and Appoint you the sd^d Elisha Hutchinson, Penn Townsend, John Leverett Jonathan Tyng, Richard Saltonstal, Robert Spnr, Ephraim Savage Zechaⁿ Tuthill, Josia Chapin, Samuel Moody, Josia Parker, William Tyng, John Hunt, Joshua Lambe and Joseph Buckmaster, or Eleven or more of you, whereof the sd^d Elisha Hutchinson, Penn Townsend or John Leverett to be one, to hold a Court Martial for the hearing and punishing of Officers and Souldiers of the Forces in the said late Expedition, for mutiny, Sedition, Desertion or any other offences against the Law Martial, not before inquired of and punished, by whomsoever done or perpetrated And in your Proceedings you are to observe and follow the Rules and Directions in the aforesd^d Act, and the Law martial or Articles of War for the Governmt. of the said Forces reporting to mee under the Hand of your president your proceedings herein. In Testimony whereof I have Signed these presents and caused the publick Seal of the Province of the Massachusetts Bay aforesd^d to be hereto affix'd. Dated at Boston the 4th day of Septembr 1707. In the Sixth year of Her Maty^s Reign.

J DUDLEY.

By order of his Excy the Govern^r by and wth the Advice & consent of the Council."—*Ibid.*, p. 400.

The confidential correspondence of the Winthrops evinces no disappointment at Dudley's discomfiture, but rather an ill-concealed contempt for the man and his pet scheme, the failure of which they evidently thought might cost him his place.§

* Captains Savage and Buckminster and the companies of Indians were discharged by a separate order.

† Executive Records of the Council, vol. 4, p. 456. The Governor's memorandum for the guidance of the Secretary in writing the above-mentioned order is as follows:—

"That the Transports be forth with discharged taking out the platforms & stores,

all military stores Landed at the Castle

Except what drawn & put on board for Winter harbour

"That two hundred men English Deserters & others Hired men & in debt be stayed at the Castle to Relieve, Casco Saco & Yorkshire The rest of the soldiers disbanded unless any restrayned upon Mutiny & Desertion since the favour of the proclamation

"That all the officers attend further order for their discharge

"Take the armes from the deserters in Blew,

"That all y^e Ammunition in y^e hands of y^e Souldiers be deliv'd up

"That the under Commissaries, and Stewards on board y^e Vessells render an acct^t & upon oath, if required, to y^e Commissary Gen^l of y^e issuing of their Provisions and of what remains.

Chaplains, Gunners & Bombardiers are discharged. . . ."—*Mass. Archives*, vol. 71, p. 397.

‡ The following memorandum in Dudley's handwriting, with slight alterations by Addington, shows the nature of sundry inquiries which the court was expected to make and report upon, besides trying and sentencing offenders:—

"To Enquire how the forces came off the ground of Port royal on June. 4. 1707. when the Council of War had that morning resolved to stay & send up for their cannon & mortars.

Who was The Author, and first signer, & presenter of that Letter of the same date contradicting the sd^d Resolve.

How and by what order the forces came off the ground the Last time, what Captain or subaltern officers have neglected their duty disobeyd or refused the Command of their superior.

To give Judgment upon any deserters that have not taken the benefit of the proclamation.

For y^e hearing and punishing of Disorders

to sit on Friday morning, y^e 5th Instant

further to Enquire into any other, disorders of disobedience, neglect, or Embeslement of stores of ammunition or provision not before Inquired of and punished."—*Ibid.*, p. 399.

§ "Flits John Winthrop to Wait Winthrop.

SEP^r 4th 1707.

. . . The misce^rage of the designe at P^r R^{ll} does (to me) make a great difficulty. Twill require a good sum to make that matter easy at home, w^{ch} will make it more difficult to advance roundly;

On the fifth, the commission being duly signed and sealed, the Governor "directed the Field Officers & Captains in the ^{s^d} Expedition, attending, to be called up, and then ordered the said Commission to be published, and the oaths appointed by Act of Parliament to be taken instead of the Oaths of Allegiance and Supremacy, to be administered to Col^o Hutchinson & Col^o Townsend of the Quorum, then present, who also repeated and signed the Declaration, and delivered the Commission to them, with direction to swear the others therein named, and to proceed in the business of the Court, and adjourn from time to time."*

The court having been organized accordingly proceeded with its duties, adjourning from time to time until the twenty-eighth of October, when the following report was agreed upon and ordered to be rendered to the Governor:—

"Whereas Col^o Elisha Hutchinson, Col^o Pen Townsend & John Leverett Esq^r Left. Col^o Jonathan Tyng, Major Richard Saltonstall, Major. Robert Spurr, Capt. Ephraim Savage, Capt. Zechariah Tuthill, Capt. Josiah Chapin Capt. Sam^l Moody, Capt. Josiah Parker, Capt. W^m Tyng Capt. John Hunt, Capt. Joshua Lamb, & Capt. Joseph Buckmaster or any Eleven of them (whereof Col^o Hutchinson, Col^o Townsend or John Leverett Esq^r to be one are nominated and appointed by his Excellency the Govern^r in a Commission bearing Date the 4. Sept. 1707. to enquire into the Miscarriages of the Late Expedition to Nova Scotia &c: and particularly by whose order and Direction the forces Drew off the first and second time from P. Royall and the ^{s^d} Officers having mett severall times and adjourned untill this 28. Oct. 1707. Do make their Return and Report as followeth Viz^t having Enquired By whose order the forces were Drawn of the first time Col^o March made answer as under his hand appears, that the forces Drew off by his order with the advise of his Commission Officers and his own Resolve, as he judged he had Liberty by his Instructions

As to the army's Drawing of y^e second time they report as follows That Col^o March beeing sick when the army Landed the Command was left to Col^o Wainwright but he being also Indisposed since his Return we have had no opportunity to speake with or Examine him. But are Informed that the Commissioners then on y^e spot have given your Excellency an account of their proceedings from time to time, and that the souldiers were in an unperswadable temper to proceed any further being then posted on y^e opposite side of y^e River to the fort of p: Royall, & were more Discouraged by the badness of y^e weather they mett with soon after their Landing and that severall Comp^s drew down to the water side near the vessell's without order from their Chief Command^r and others would have Drawn off had they not been prevented This being all they can report to your Excellency of this matter humbly referring to Col^o Wainwright for a more full account thereof

This report. is ordered to made† to His Excellency by Command from the aboves^d Officers. this 28 oct. 1707.

J DUDLEY:‡ Cleric. "—*Ibid.*,

p. 408.

The second session of the Assembly ended on the sixteenth of August by prorogation to the twenty-second of October, and the Court was again prorogued, on the tenth, to the twenty-ninth, when the Governor's opening speech contained the following passage:—

"I am Sensible there were Some mistakes & Disorders in that Expedition, And have therefore Since their Return appointed a Court Martiall to sit & Examine any thing that would demand a military Censure & Punishm^t; but the Number of officers required by the Act of Assembly to constitute that Court, are so many that It has made it almost Impracticable, § which I therefore recom^d to y^r Consideration that it may be made more easy for the future, during the Continuance of the warr, That officers & Souldiers offending against the Law Martiall may have a Speedy Process ag^t Them."—*Ibid.*, vol. 108, p. 55.

On the thirty-first the report was read in Council and sent to the House, where it was read twice on that day; and, on the twenty-eighth of November, the following vote was passed thereon:—

"Upon Consideration of the Report of the late Court Martiall.

Voted That the Law for Erecting of a Court Do's not Intend the Trying, of any Persons by s^d Court, in any County where, there is a Court of Assize, or where a Court of Oyer, & Terminer may be conveniently, appointed, or after the forces are Disbanded; But in Armies, or Garrisons where no such Courts, are or may be regularly Constituted.

JOHN BURRILL Speake^r."—*Ibid.*,

vol. 71, p. 409.

& I doubt when it comes to that, they will make advantage of his fondnes and send it but a short purse."—*Winthrop Papers*, part V., p. 401.

On the same day John Winthrop wrote as follows to his uncle, the Governor of Connecticut:—

"The Port-Royal fleets & army are now all come back, and a court martiall try's y^e officers to-morrow. Coll: Hutchinson, Townsend & Leveret are laugh at more than y^r former blades. They are saluted as they pass along the streets wth nothing but 'The three Port-Royal worthies! The three champions', &c; but w^e could be done when y^e divell was entered into y^e common souldiers y^t would not obey their officers? This has been one of y^e chiefe failures in y^e whole expedition, first & last."—*Ibid.*, p. 390.

* Executive Records of the Council, vol. 4, p. 458.

† Sic.

‡ This Joseph was the Governor's third son, next older than Paul, the attorney-general.

§ Hutchinson (Hist. of Mass. ed. 1767, vol. 2, p. 171) misinterprets this passage and supposes that it indicates that no court martial was held. He says "A court martial was judged necessary, and ordered, but never met. The act of the province, for constituting courts martial, made so many officers requisite, that it was found impracticable to hold one. This must be owing to the great number of persons charged, the remainder being insufficient to try them."

By the second section of chapter 7 of the acts of the year 1704-5 it was declared "that no court-martial shall consist of fewer than eleven, whereof none to be under the degree of a commission officer, under pay; and the president of such court-martial not to be under the degree of a field-officer, or the then commander-in-chief of the forces under pay, where the offender is to be tried."

The report and this vote annexed were read in Council on the second of December, and since the execution of the judgment or sentence of a court-martial was the exclusive function of the Governor, as captain-general, no concurrence of the Council was necessary to perfect the vote, so here the proceedings ended.

When Paddon arrived at Port Royal on the morning of the thirtieth (O. S.), not finding the fleet in sight, he sent one of the brigantines up stream to discover the location of the forces; but being repulsed by the inhabitants near the narrow pass south of Goat Island the vessel turned and rejoined its companions, and all set sail for Boston.

By the vote of the Council † ordering the drawing of a warrant upon the province treasurer for paying William Fellows of Ipswich for twenty days' service in piloting the Swallow Prize on this voyage it would seem that Paddon returned about the thirteenth or fourteenth of September, Old Style.

The failure of this expedition was the signal for a more active renewal of the inroads of the savages, which had been continued, at intervals, from May through June and July. The French "*Relation*" contains the following reference to these attacks:—

"The Abenakis and other savages, friends of the French, made cruel war on the English ‡ scalping them, killing a great many of them, making prisoners, whom they carried

* The tenth of September (N. S.) according to the French "*Relation*."

† December 15, 1707. Executive Records of the Council, vol. 4, p. 501; and see Mass. Archives, vol. 123, p. 24.

‡ Philip Schuyler, the faithful sentinel of the English on the westernmost outpost, continued to give warning from time to time of the hostile designs of the French and Indian enemy at Canada. The following is the letter in which he communicated tidings, brought to him by his scouts, of the departure of bands of Indians about this time to attack the frontiers of New England:—

"Albany 11 of august 1707

Coll: St Partridge
Hond Sr

This afternoon we had Two spys Returnd from Canada, who have been out a month, and bringing us news of Partyes being out against New England, we thought fitt forthwith to dispatch y^e bearer Saml Doxy who is just come from your Parts, and hope y^e will satisfy him for his trouble,

Those two Trusty Indians tell us y^t it is now 9 days since they came from Caghnuaque, a Castle belonging to y^e french Praying Maquase neer to Prary in Canada, and y^t at y^e Place where we fought the French 16 year agoe between La Prary & Chamblie, they see thirteenth French Indians 7 days agoe, who were bound for New England fighting, and when they came to y^e otter Creek two days afterwards that is on y^e 6th Instant, which runs into y^e east side of y^e Lake, they see a Party of 29 french Indians, and lay y^e night neer unto y^m, who told y^e sd two Indians that they were design'd to goe and fight y^e English of New England, & charg'd y^m by no means to tell y^e People of Albany of it, whereupon y^e sd Two spys Reply'd. they could not Conceale such a matter when they went out to kill their brethren of New England, upon which y^e Indians said nothing

They say farther they see Deaken Shelden at mont Royall, who walk'd y^e streets, but they were told, he was detain'd, & had not y^e liberty to goe home

They sd also y^t when they came from mont Royall both y^e Governours were there viz^t, y^e gov^r of quebek & y^e gov^r of mont Royall we suspect, that they are Encouraging y^e Indians as much as Possible to goe out against New England, and therefore hope y^e will give such warning, that all Remote Places may be upon their guard, wee hope God will Protect your People from falling into y^e hands of these bloody Salvages, I cannot Enlarge because I would have y^e messenger to Ride this night as farr as Kinderhook, so shall break off & Remain

Hond Sr

Your very humble serv^t

P^r: SCHUYLER

Pray give my service to Mr Williams— It is now about 10 oClock at night."—*Mass. Archives*, vol. 2, p. 444.

The following are contemporaneous accounts of the principal Indian assaults during the months of August and September:—

"Aug. 10, 1707. Sabbath-evening. Ser: Smith, Elias Wear, Joshua Hilton, (& Josias Littlefields wife & son, returning from Boston to Wells) betwixt York & Cape-Nidduck, were all slain by the Indians, Except Hilton who was Carried away. Tis reported y^t Ser Smith had 15 shots. The num: of the enemy supposed to be 40 or 50."—*Pike's Journal*, p. 146. And see News-Letter, No. 174.

For the Indian attack on Marlborough on the sixteenth see the note to chapter 61, post.

"Piscataqua, Sept. 19. John Dothoof being in Company with some others at Exeter on Monday last, [the fifteenth] was attacked by a party of Indians near the Body of the Town, whom they kill'd and scalp'd; the Inhabitants immediately muster'd in pursuit of the Enemy.

On Tuesday night, at the House of Mr. Gunnison in Kittery, the Watchman hearing a Noise, and concluding it to be a raft on the water, hail'd who was there, at which time the Wife of one Wentworth that belong'd to the Garrison Landed from her Canoo, at a little distance from the raft, and passing through the Yard of the said Gunnison, was discover'd by some within that was newly awak'd by the aforesaid Noise; she having her hood wrapt round about her, apprehended her to be an Indian, & without speaking fir'd and kill'd her.

On Wednesday at 11 a Clock in the morning at Oyster River 12 men were halloing of Timber for a Saw-Mill, about half a mile from Capt. Cheslys Garrison, & being fearful of the lurking Enemy (by a reasonable precaution given by his Excellency the Governour) they ordered 6 men to accompany the Team while the other 6 guarded their way, but before the Team had far past the lurking Enemy, about 20 or 30 all naked save their flaps with most dismal roaring and hideous exclamation fell on those that were behind, which Capt. Chesly hearing, being a man of singular Courage returned from the Team and the others with him to relieve their Friends, but the Enemy being far superior in number, and having the advantage of the first shot, kill'd 7 English, which they scalp'd, & grievously wounded another; one of those that except says that we kill'd some of the Enemy in the fight. The persons names that were kill'd are Capt. Chesly, James Chesly, Ebenezer Chesly, Tho. Chesly Ensign Burnham, Nath. Pitman, and John Head, Ebenezer Pet wounded [The Indian that killed James Chesley was slain upon the spot by Robert Thomsen].

We are also advised, that on Wednesday evening one [Henry] Elkins was kill'd by the Indians between Kingstoun & Exeter [as he was seeking after a horse in the woods]."—*Boston News-Letter*, No. 179. See also Pike's Journal under these dates.

For the attack on Winter Harbor on the twenty-first of September see the note to chapter 49, post.

to Quebec — and some of whom have embraced the Catholic religion — seizing their cattle and fowls, and pillaging their houses; and forcing them to abandon fifty leagues of country so that they did not dare to go out or gather their crops except at night, or with an escort."

De Subercase and St. Castin received letters of commendation from the minister of marine at Marly for their conduct in repelling the English attacks on Port Royal, and Vandreuil wrote to the minister, May 30, 1708, that he was continuing to send war parties against the government of Boston, to take prisoners, and get information as to any enterprise plotting against Acadia, and in case of a design to renew the attack on Port Royal, to be able to give de Subercase all assistance in his power.

One of the later of these expeditions sent out by Vandreuil was led by French officers,* of whom one was Hertel de Rouville,† the leader of the bloody attack on Deerfield four years before, and it was attended with similar carnage. On Sunday, the twenty-ninth of August, 1708, these officers at the head of about one hundred and fifty warriors attacked Haverhill, killing and capturing between thirty and forty persons. Captain Simon Wainwright, Benjamin Rolfe (the minister of the town) and his wife and child, were among the slain.‡ See, also, note to chapter 71 of the resolves of 1708-9.

Chap. 28. This chapter is from archives, vol. 71, p. 386. It is recorded in council records, vol. VIII., p. 312.

For the proceedings which led to the passage of the order which constitutes this chapter, and for the orders sent by the Governor in accordance therewith, see the note to the preceding chapter.

Chap. 29. This chapter is from archives, vol. 113, p. 422. It is recorded in council records, vol. VIII., p. 312.

At their annual town meeting in 1701 (March 11, 1700-1) the inhabitants of Boston passed the following vote to raise five hundred pounds, to be invested in tools and a stock of materials for the employment of the town's poor: —

"Vpon the Consideration of the great Charges this Town is at yearly from the Growing numb^r. of poor amonge us & the great number Come in amonge us w^{ch} has been occasioned by the Eastern warr wth the Indians, & other poor and Vild persons, y^t. has come in amonge ous, from other Towns, Our Town being so populous and they shifting from place to place, so long before they be descouered, that the law makes them Inhabitants, now these things do presage great poverty to be hastening upon this Town if some Sutable methods be not timely Taken to prevent the same. Vpon the Consideration of the things for mentioned,

It was Voted, That there be five hundred pounds raised upon the Inhabitants of the Town of Boston, To be Layd out and improved, by the Overseers of the poor & such others w^{ch}, shall by the Town be added to them, as a stock to be imployed, for the procur-ing materials, & Tools, To Sett and Keep the poor people and Ill persons, at work, as the Law Directs." — *Town Records, 1700-1728, p. 3.*

The preamble to the above vote accounts for the extraordinary accession of indigent people and strangers which induced the making of this provision, and the vote explains why, in the act passed by the next Assembly prescribing the form of a warrant for collecting town assessments, etc. (1701-2, chapter 8, § 3), Boston was excepted from the general rule referring to town rates, as prescribed in the act of 1699-1700, chapter 26, § 9. The act last named was revived and continued until June 29, 1706, by the act of 1703-4, chapter 3, § 7, and again for three years more by the act of 1706-7, chapter 3, § 1; the exception in favor of Boston being renewed in each instance.

The rule of assessment from which the town of Boston sought and obtained relief required that "all county and town rates and assessments" should be apportioned "upon the inhabitants and estates" within the town according to the rule prescribed in the tax act of the year in which the apportionment should be made, thus exempting all persons who were not inhabitants.

Now the act for regulating townships, etc., to the provisions of which the inhabitants of Boston were restored by the exception first enacted in 1701, provided that all inhabitants and other residents within the town and the precincts thereof, and their land and estates there, should be assessed "in just and equal proportion as near as may be unto the county charges, . . . and to all town charges each particular person" should be assessed "according to his known ability and estate;" thus leaving it doubtful if a difference in the assessment of town and county rates were not intended.

The tax act of 1701 (the later tax acts containing, substantially, the same provision) required, besides an assessment "upon all ratable male polls above the age of sixteen years," a tax "on all estates both real and personal lying within the limits" of the several towns or precincts "and next unto the same (not paying elsewhere)."

Again the annual tax act required that the province tax upon real estate should be assessed to the person "in whose hands tenure, occupation or possession, soever, the same shall be found;" and it was not altogether certain that the exception of Boston from the operation of the general act of 1699, and the subjecting the town to the provisions of the act of 1692 in the particular case for which the town had sought relief, had not also changed the rule as to the assessment of real estate in Boston, since the first provision for assessing tenants of the freehold exclusively was enacted after § the passage of the act last named.

* Charlevoix says, "Messieurs de St. Ours des Chaillons and Hertel de Rouville were to command the French [on this expedition], and the Sieur Boucher de la Perrière was to lead the Indians." — *Shea's translation, vol. V., p. 204.*

† See p. 351, ante.

‡ According to Sewall, Wainwright and the three Rolfes were buried in the same grave on the following Tuesday. — *Diary, vol. II., p. 234.*

§ That is, by the act of 1692-3, chapter 41, § 1.

In the third session of 1706-7, the following preamble and resolution explanatory of the law* of 1692-3, chapter 28, were passed by the Council and sent to the House for concurrence:—

“As an Explanation of the Sixth Paragraph in the Act, For Regulating of Townships, Choice of Town Officers, and Setting forth their Power.—whereby It is Enacted.

‘That the Select men or Townsmen chosen in Each Town respectively, be and hereby are Impowred to Assess the Inhabitants and Residents within such Town and the Precincts thereof, And the Lands and Estates lying within the bounds of such Town in just and equal proportion as near as may be unto the County charges according as they shall receive Order from the Court of Quarter Sessions to be held for the same County, and to all Town charges, Each particular person according to his known Ability and Estate &c.—’

Resolved

That the Law in the said Paragraph do's equally refer to Town and County Assessments both for persons and Estate.

And that the Tenants or Occupants of Housing or Lands, and none other, are to be Assessed for the same, as the Law directs for Province Taxes; with the like Provision betwixt Landlords and Tenants.—

Each persons Ability to be considered according to the ratable Estate in his hands and Improvment and his other Incomes. Servants, and Sons under the care and Government of their Masters or Parents to be considered at the discretion of the Assessors in what shall be laid upon the Poll, and none other, but such as are Exempted in the Province Tax.

And the Selectmen or Assessors of the Town of Boston from time to time, are hereby Directed to proceed accordingly and not otherwise.”—*Mass. Archives, vol. 113, p. 401.*

This was on the sixth of November, and on the fourth of December the representatives voted not to concur therein. Two days thereafter the Council passed another declaratory resolve, as follows:—

“Resolved

That, notwithstanding the Exemption of the Town of Boston from the Rules of the Province Tax, as to the Town assessment, The Assessors are by Law required to be under Oath, and are obliged to assess all Persons Inhabiting or resident in the sd Town and the Precincts thereof, and the Lands and Estates lying within the bounds of the said Town in whose lands tenure or Occupation soever the same shall be; as also for Income by Trade and faculty in equal Proportion as near as may be; And to make fair Lists of such Assessments, Setting forth in distinct Columns against Each persons Name how much he is assessed for Polls, how much for Houses and Lands, how much for personal Estate, and Income by Trade or faculty. The Land Lord to reimburse the Tenant one halfe of the Tax Set upon Houses & Lands, where there is no Special Contract or Agreement to the contrary.—

And the Assessors of the Town of Boston are Directed from time to time to Govern themselves accordingly.”—*Ibid., p. 402.*

This, on being sent to the House, for concurrence, on the same day was nonconcurred in, and there the subject appears to have been dropped for that year.

The question seems to have come up again the present session upon the following motion of the assessors of the town of Boston:—

“14. August, 1707./ We the Subscribers, with others, being Assessors of the Town of Boston for this present year, there being Different Apprehensions amongst us, referring to the meaning of the Sixth Paragraph in the Law touching Townships, as to County, and Town Assessments, whither it do Equally referr to both, or not? we pray the Resolution of the Court thereupon

SAMUEL LYNDE

JOSHUA GEE

EDWD MARTYN

B WALKER.”—*Ibid.,*

p. 422.

This application was read, first, in the Council, on the fifteenth, when the resolve which constitutes this chapter, which is substantially the first resolve of the previous year, omitting the last two paragraphs, was passed and sent to the House for concurrence. On the next day it was concurred in, and consented to by the Governor.

Chap. 30. This chapter is from council records, vol. VIII., p. 313. It is preserved in archives, vol. 101, p. 337.

Chap. 31. This chapter is from council records, vol. VIII., p. 313. It has not been found in the archives.

For the item in the province treasurer's account showing that the exchange was made see the note to resolves, 1706-7, chapter 133.

Chap. 32. This chapter is from archives, vol. 71, p. 387. It is recorded in council records, vol. VIII., p. 314.

The “stores” which the Commissary-General was directed to provide, under this chapter, undoubtedly embraced gunpowder;—such ammunition being one of the most important of the stores of war. See note to chapter 142 of the resolves of 1706-7, and respecting a supply of lead, see note to chapter 27, *ante*.

The following subsequent orders seem to have been passed pursuant to this resolve:—

“Jan. 20, 1707-8. *Mr* Commissary General informing that an opportunity now presented for buying of a Quantity of good Gun powder, at the rate of eight pounds ten shillings *per* Barrel.

And the last order of the General Assembly for the purchasing a Quantity of Gun powder not being completed.

Ordered that Mr Commissary buy seventy barrels of the s^d Powder at the rate afores^d for the use of the Province, the present usual price being eleven pounds p^r Barrel and not likely to be lower.

Executive Records of the Council, vol. 4, p. 524.

J: DUDLEY." — *Exec-*

"Feb. 2, 1707-8. Mr Commissary General Reporting, that according to the order of the Board of the 20th of January past, he had purchased and received of James Haynes Merchant seventy barrels of Gun powder, for the use of the province, amounting to five hundred ninety five pounds,

Advised and Consented. That a Warrant be made out to the Treasurer to pay the above sum of Five hundred ninety five pounds to Andrew Belcher Esq^{re} Commissary General, to enable him to pay for the s^d powder." — *Ibid.*, p. 532.

The following is the province treasurer's account of payment of allowances for gunpowder purchased of Haynes under this chapter, and that purchased of Roberts under chapter 142 of the resolves of 1706-7 and chapter 25, *ante*; viz., £444 + £576 + £595 = £1615:—

"Paid Andr Belcher Esq^r to Inable him to Pay James Haines for 70. barrels Gun Powder and to Nicholas Roberts for 85 barrels Gun Powder purchased pursuant to the Resolve of the General Assembly 1615 " — " —."

— *Mass. Archives, vol. 123, p. 27.*

The order which constitutes this chapter originated in the House August 15, 1707, and was sent to the Council for concurrence. On the next day it was concurred in, and consented to by the Governor.

Chap. 38. This chapter is from council records, vol. VIII., p. 319, and archives, vol. 71, p. 437.

The following extracts from the executive records of the council show the inception of Sheldon's third mission to Canada, which in his petition he states was begun April 17, 1707:—

"Jan. 14, 1706-7. — His Excellency acquainted the Council, that there are about ninety English Prisoners still in the hands of the French and Indians of Canada, which the Govern^r of Quebec has promised shall be returned home this Spring; and proposed whither it were not advisable to have a person Leger at Quebec, to put forward that affair, and to endeavour, that all the prisoners be sent and that Mr John Sheldon who has been twice already there may be Employed with a suitable Retinue to undertake a Journey thither on that service, if the season will permit.

The Council Advised accordingly." — *Vol. 4, p. 368.*

"Jan. 18, 1706-7. — His Excellency Communicated to the Council the draught of his Letter to Mr Vaudruille Gov^r of Canada intended by Mr John Sheldon, Messenger thither." — *Ibid.*, p. 370.

The following is the petition mentioned in the preamble to this chapter:—

"To His Excellency Joseph Dudley Esq^r Captain Generall and Governour in chief of Her Majesty's Province of the Massachusetts Bay in New-England, And to the Honourable the Council, and Representatives, in Generall Court Assembled.

The Petition of John Sheldon

Humbly Sheweth.

That your Petitioner, accompanied by Edward Allin Edmund Rice, & Nathaniel Brooks, were Ordered by y^r EX^{cy} to Undertake a Journey to Canada, in order to Recover the English Captives there. In Obedience whereunto y^r Petitioner with the persons afores^d began their Journey upon the 17th day of april last, & Proceeded to Canada, where your Petitioner, faithfully & diligently pursued the s^d Designe, to the utmost of his Power, and So far Succeeded therein, as to bring home with him Seven Captives, and Returned home again on the 18th day of Septem^r In which Journey y^r Petition^r with the afores^d Persons, endured much fatigue and hardship, & Pass'd through great Dangers, and by their absence from their Business, Sustained considerable Damage.

Your Petitioner therefore humbly Praies your Excellency, & Honours, to Consider the Premises, and Order Such Compensation, & Allowance, to him, & those that accompanied him in the s^d Service, as in your Wisdom & Justice, Shall be thought meet.

And your Petitioner as in Duty bound Shall ever Pray.

Boston Octo^r 30th 1707.

JOHN SHELDEN." — *Mass.*

Archives, vol. 71, p. 436.

The following account appears to have been presented with the petition:—

"An accompt of the Sums or Disbursements of John Sheldon in his Journey to Canada in the Service of the Massachusetts bay from Aprill 17th to the 18th day of Sept^r 1707. viz with 3 men Travelling with him

	Livers.	Sews
viz! From may. 9 th To June 25 th expended for our Diet and Washing	174	13.
To Expences for Diet and washing from June 24 to August 9 th	142	13.
To Expences for a pr Shoes for Edw. Allin	6	"
more for s ^d Allin for Tobaccocoe	5	" 7.
To Expences for Edm. Rice for a pr shoes	6	"
more for s ^d Rice for Tobaccocoe	4	" 1
To Expences for Nathaniel Brooks for a pr Shoes	6	"
more for Tobaccocoe	2	" 15.
p ^d To an Indian to gvide ns into the way when bewildered	6	"
p ^d to flerryemen in going to Oso fort to Se the Captives	2	"
p ^d to the barber for Trimming	14	"

p ^d for Diet for Henry Segur * Captive	41	5.	.
more paid for s ^d Segur for stockings & Shoes	9	10.	
p ^d To a man for fetching s ^d Segur from the Indian Town to Mont Roy ^l	3		
p ^d for a Bottle & Brandy for or voyage	10	2.	
p ^d for a Deer Skin for Shoes & 3 pair Indian shoes	8	10	

	443	16	
To further Expences at Albany in coming home	11	8	d
for ye french mens Diet	00	16	10
To Diet for my Self	00	02	06
For provision & drink for our voyage from York to Seabrook	00	12	6
p ^d for of freight	00	08	0
p ^d To ye ferryman at Seabrook	00	01	4
p ^d For a man & horse to N. London	00	02	6
p ^d for quarters at Stonington	00	02	10
for Shoeing horses	00	02	8
p ^d for quarters at Seaconk and horse hire	00	10	6
To Pocket Expences	03	00	..
	5	19	2
paid out of his own particular stock			
viz To Money paid for hire of a man & horse to bring a Captive woman from Albany to Woodberry	1	19	..
and To money p ^d for provision for the Captives	00	10	6
	2	9	6

p^d for the Redemption of a Molatto Captive Taken from Exeter 40 p^{cs} of 8¹/₈ at 17^d Weight which he is to pay me." — *Ibid.*, p. 438.

This petition appears to have been read in the House on the thirty-first of October, and on the first of November the resolve which constitutes this chapter was passed and sent to the Council, for concurrence, when it was immediately read and concurred in, and consented to by the Governor.

The following items in the executive records of the council and in the News-Letter, respectively, serve to indicate his progress during this journey:—

"Aug. 7. 1707.—His Excellency communicated a Letter from Mr Shelden Messenger to the Govern^r of Canada, for the procuring of the English prisoners in that Country; Dated from Mont Real, the 20th of June past, in which he advises that he has been arrived there one & forty days, and that the French were alarm'd wth the Report of a Fleet from hence design'd for Quebeck, and that the Govern^r was drawing Forces thither to receive them." — *Vol. 4, p. 451.*

"New-York, Septemb. 1. . . . Yesterday arrived here a French Flag of Truce from Canada, with whom came Capt. Shelden who was sent in April last from New-England with a Flag of Truce to Canada, and brought with him 7 New-England Captives." — *No. 177.*

"Sept. 1. 1707.—His Excellency communicated to the Council a Letter from Mr John Shelden, dated at Albany the twenty fourth of August past advising of his arrival there, with seven English Prisoners from Chamblee, under a Convoy of six French men. And that Col^l Schuyler had obliged him with the six French men to attend the Lord Cornbury at New York." — *Vol. 4, p. 457.*

"Sept. 8. 1707.—Mr John Shelden returned from Canada, attended his Excellency in Council, and his Excellency communicated his Letters received by him from Mr Vandreuil Gov^r there of the 16th of August past New stile, and Shelden gave a narrative of his Negotiation." — *Ibid.*, p. 462.

The order in Council † for the payment of thirty-six pounds eight shillings to Shelden for "service," and for seventeen pounds to each of his companions, was passed December 10, 1707, and the province treasurer's account ‡ shows that these amounts were paid.

This was after Shelden's third and last expedition, from which, bringing with him seven released captives, he returned by way of Albany, New York, Saybrook, New London, Stonington and the road from Rhode Island to Boston through Seekonk, reaching Boston by the eighth, and Deerfield on the eighteenth of September.

The final liquidation and repayment of the sums borrowed of Vandreuil on the credit of the province by Shelden and Appleton appear in the following entries:—

"June 10, 1708. Whereas Samuel Appleton Esq^r Employed by the Government on a Message to Mr Vandreuil Gov^r of Canada to negotiate the Exchange of Prisoners; & Mr John Shelden in two attendances on the said Mr Vandreuil upon the same occasion, did severally take up divers sums of money upon credit for the service of the Government, the Accounts whereof have been laid before the General Assembly, & by them allowed; to wit: Mr Appleton thirteen hundred Livres, of which sixty one is paid by Parotier, for money advanced to him whilst a Prisoner here, and there being behind, one hundred and twenty nine Livres, twelve Solz of Mr Shelden's first account, which was expected to have been paid by Mr Gorden's Bill drawn upon Mr Mackar for money's advanced here to the s^d Mr Gorden, but refused and since made good out of the Effects of the s^d Gorden; and in Mr Shelden's last Voyage seven hundred Livres, in the whole, two thousand sixty

* See chapter 53, *post*, and note.

† Executive Records of the Council, vol. 4, p. 497.

‡ Mass. Archives, vol. 123, p. 28.

eight Livres, twelve Solz, amounting to one hundred seventy two pounds, seven shillings and eight pence of this money which has not hitherto been paid for want of orders. The Notes or Bills given by the aforementioned Gentlemen for the same not being come to hand. And Whereas, Cole Peter Schuyler of Albany, now in Town, has a Letter from M^r Meriel Priest, resident at Mont Real by order of M^r Vandreuil, desiring the money may be paid to Cole Schuyler to be remitted by the way of Albany; and Cole Schuyler having undertaken to remit the money accordingly, and to return M^r Vandreuil's receipt for the same.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the aforesaid sum of one hundred seventy two pounds, seven shillings and eight pence for Account of the s^d M^r Vandreuil to the s^d Cole Schuyler accordingly. — *Ibid.*, p. 579.

“Paid Cole Peter Schuyler money taken up of M^r Vandreuil Govern^r of Canada by Sam^l Appleton Esq^r Employed by y^e Govern^t on a Message to s^d Vandreuil to negotiate Exchange of Prisoners & by M^r Jⁿ Shelden in two Attendance on y^e s^d M^r Vandreuil upon y^e Same Occasion, s^d Cole Schuyler having undertaken to remit y^e money Accordingly & to Return M^r Vandreuil's Receipt for y^e Same . . . 172^o, 7^o, 8^o” — *Mass. Archives*, vol. 122, p. 309.

See, also, chapter 88 of the resolves of 1706-7, and note.

Chap. 40. This chapter is from council records, vol. VIII., p. 319, and archives, vol. 71, p. 416.

The following is the petition mentioned in the preamble to this chapter:—

“To his Excellency Joseph Dudley Esq^r Cap^t General and Gou^vneur In Cheife in and over her Maj^{ty}s Province of the Massachusetts &c The Hon^{ble} Council and House of Representatives In General Court Assembled October. 30th 1707

The Petition of Sam^l Sprague of Duxbury In the County of Plimouth

Humbly sheweth

that Whereas your Petitioner went out In the Late Expedition to Leacada &c a Leiv^t to Cap^t Stephen Otis and being In the first Engagement with the Enemie att Port Royal was then wounded by a shot that took off part of two of his fingers. And your petitioner being Desirous notwithstanding to further and promote the Designe then Engaged In did stay on shore with the souldiers for about five or six Days In which time he got such a Cold In his hand that made it Exceeding bad and then Returned on Borde her Maj^{ty}s ship the Dedford frigott where he was posted for Transportation and not being suffered to goe Elsewhere to gitt another Chirurrgion was forced to putt himselfe under the Care of the Docter of that ship and promised to satisfy him for the Cure, And according to your petitioners promis hath since paid the s^d Docter three pounds for the Cure aforesd

Your Petitioner Humbly Prays that your Excellency and this Hon^{ble} Court will In your Wisdome & Justice se Cause to order that your petitioner may be Reimbursed for what money he hath Expended on his Cure as also for what time he hath Lost Charge he hath been att to procure the same, as also for what time your petitioner hath Lost and is Like to Loose by Reason of his wound aforesd which is not yet well And your Petitioner shall as in Duty bound ever pray &c

SAMUELL SPRAGUE.” — *Mass.*

Archives, vol. 71, p. 416.

This petition was read in the House on the first of November and referred to a committee, who, the same day, reported, passed and sent to the Council, for concurrence, the resolve which constitutes this chapter. On the third it was concurred in, and consented to by the Governor.

The order in Council * for the payment of this allowance was passed December 10, 1707, and the province treasurer's account † shows that it was paid.

For an account of the skirmish in which Sprague received his wound, see foot-note to chapter 16, p. 715, *ante*.

Chap. 41. This chapter is from council records, vol. VIII., p. 320. It has not been found in the archives.

This chapter relates to the general subject of the boundary line between Massachusetts and Rhode Island, and the details of the controversy appear with resolves, orders, etc., relating to the establishment, etc., of towns, etc.

Chap. 42. This chapter is from council records, vol. VIII., p. 321, and archives, vol. 63, p. 92.

The petition mentioned in the preamble to this chapter is as follows:—

“To his Exc^{ty} Joseph Dudley Esq^r Captain General & Gov^r in Chief in & over her Mat^{ys} Province of the Massach^{ts} Bay in New England. The Hon^{ble} Council & Representatives of the said Province in General Court Assembled the 29th of October 1707.—

The Petition of Thomas Palmer of Boston Esq^r

Sheweth,

That Y^{or} Pet^r about four or five months since had Imported upon the Ketch Freke John Rayner Master a Quantity of Wines of the Western Islands, And that at the time of Landing the Same, or soon after, Several Pipes of the said Wines to the Number of Eighteen were decayed, of w^{ch} the Commissioner of Impost is duely Apprizd, and had Seasonable, Information given him, as himselfe will Certify, but had not Leisure then to Attend a View of them; And the time set by the Law being Elapsed, apprehends he cannot Rebate and refund the Duty's paid for the same without the Approbation and Allowance of this hon^{ble} Court.—

* Executive Records of the Council, vol. 4, p. 497.

† *Mass. Archives*, vol. 123, p. 24.

Wherefore yor Petr humbly Pray's, That your Ex^{ty} and this Hon^{ble} Court will be pleased to Order the Commissary to Rebate & pay back to yor Petr the Rates & Duty's paid for the s^d Decayed Wines. — And yor Petr shall pray &e

THO: PALMER." — *Mass.*

Archives, vol. 63, p. 92.

This petition was read in Council on the fourth of November and sent to the House. On the fifth the House passed the resolve which constitutes this chapter and on the same day it was read and concurred in by the Council, and consented to by the Governor.

Chap. 43. This chapter is from council records, vol. VIII., p. 321, and archives, vol. 11, p. 231.

The petition mentioned in the preamble to this chapter is as follows: —

"To his Excellency Joseph Dudley Esqr Capt Genl and Commandr in chief in & over her Maj^{ties} Provinces of ye Massachusetts-Bay, & New Hampshire in New-England, & to ye Council, & Representatives in Gen^l Court Assembled & Convened —

Wee yor humble Petitioners of ye Town of Deerfield, humbly Sheweth; That you being our Political Fathers, Wee Esteem it A singular blessing of ye God of Heaven, that we have Such Fathers as yor Hon^{rs} are, to address in these Times of Difficulties and Streights, & have cause to look upon ye many favo^{rs} we have heretofore been made ye Partakers of, the Blessings of Heaven Distilled on us thro ye hands of yor Bounty, & Should be highly Ingratefull if we Should not Acknowledge ye Same, wth humble thanks to yor Hon^{rs} Particularly ye care you have taken, & ye Costs you have been att in Providing for our Rev^d Pasto^r's* & Incouraging his Continuance amongst us: We Labouring Still under many Difficulties & Streights being but a Smal handfull of us, & the most of us very low in the World, are at Considerable charges among or Selves in Building A House, & Providing other Necessarys & Conveniencys for the Resettling of or Rever^d Pasto^r, not here to be Named: & many who Disserted ye Place quickly after ye Desolation, By or Rev^d Pasto^r's Return, & giving hopes of Settling again amongst us has encouraged their Return, with many other who Returned out of Captivity, who Instead of helping in Such charges, have rather need of help to build Houses for themselves, & Providing oth^r Necessarys for their Subsistance: Our necessities putting us upon it, & being Imboldened by form^r favo^{rs} & Incouragem^{ts} Wee humbly Crave yor help in the Maintenance and Incouragem^{ts} of our Worthy Pasto^r's* amongst us; You were Pleased to do Considerable ye Last Year that way, our Necessities being Still very great, we Pray you would consider us in that Regard; Wee have Devolved this of Concern into ye hands of ye Worshipfull Col^l Sam^l Partridge Esqr & Capt John Shelden to manage for us, hoping yor Hon^{rs} will consider yor Poor Petition^{rs}; and for yor Hon^{rs} we shall ever Pray. —

Deerfield Octobr 25th 1707.

JONATHAN WELLS } In behalf of ye whole
JOHN SHELLEN } Town of Deerfield."

— *Mass. Archives, vol. 11, p. 231.*

This petition was read, first, in the Council, on the fourth of November, and sent to the representatives. On the next day it was read in the House and the resolve which constitutes this chapter passed thereon and sent to the Council, for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

Two orders in Council† were passed for warrants to the province treasurer for paying the allowance granted by this chapter, — the former July 8, 1708, for ten pounds and the latter December 23, 1708, for the remainder.

The entry in the province treasurer's account,‡ intended to show the payment of these sums, makes the time of Williams's support date from December, 1708, instead of 1707, an obvious mistake.

Chap. 44. This chapter is from council records, vol. VIII., p. 321, and archives, vol. 71, p. 343.

The following is the petition of Sayer and Bane, upon which the order which constitutes this chapter was passed: —

"To his Ex^{lly} Joseph Dudley Esqr. Capt Gen^l & Gen^l &c. & ye Hon^{bl} ye Councill & Representatives convened in Gen^l Assembly ye 28th May 1707.

The humble petition of William Sawyer & Lewis Bane In behalf of their Respective Townes Wells & York who they Respectively Represent

May it please yor Ex^{lly} & Hon^{rs}. such is the deplorable Estate of our Townes y^t by Reason of Constant watching warding scouting & Repaires of our Garrisons, and Encouragem^{ts} of Soulb^s in prosecution of ye Enemy, above what is allowed pay for by ye province) tho we are Exensd from publick Taxes That we are not at this time able to supply our selves wth stores of warr as ye Law provides, & as Indeed Nature calls for to defend our selves agst ye Comon Enemy y^t we expect ye approach of Every day:

Therefore Humbly pray yor Ex^{lly} & Hon^{rs} In this P^{sent} straight to afford soe much Relief as to supply Each Towne wth one Barrell of powder & shott proportionable, y^t we are in absolute need of for yor & our defence being frontiers y^t we may be ye more Encouraged & in Readiness for y^t service y^t we may be providentially Cal^d too. yor Humble Serv^{ts} shall for yor Hon^{rs} still pray

WILL SAYER
LEWIS BANE." — *Mass.*

Archives, vol. 71, p. 343.

This petition was presented at the first session this year and read in the House on the thirteenth of June, when the order which constitutes this chapter was passed and sent up for concurrence. No further action appears to have been taken upon this matter until

* *Sic.*

† Executive Records of the Council, vol. 4, pp. 503, 654.

‡ *Mass. Archives, vol. 122, p. 308.*

November 5, 1707, when the House passed and sent up for concurrence the following order endorsed upon the order of the thirteenth of June:—

“Ordered That the Vote on the other side be revived.” — *Ibid.*, p. 344.

This was read and concurred in by the Council, and on the same day the vote was passed, and consented to by the Governor.

Chap. 47. This chapter is from council records, vol. VIII., p. 327, and archives, vol. 71, p. 381.

The following is the petition mentioned in the preamble to this chapter:—

“To his E^xcy Joseph Dudley Esq^r Cap^t General and Govern^r in Chief In and over her Mat^{ies} Province of the Massachusetts Bay, & New Hampshire &c In New England And to the Hon^{ble} the Council & Representatives now in General Court assembled. August 13^o 1707

The Petition of William Beal of York In the Province of Main

Humbly Sheweth

That Whereas your Petition^r was a Souldier under Cap^t Isaac Negroes att York, about Nine years Since (At which time) being by s^d Negroes Command Sent Scout, with Sundry other Souldiers into the woods for making discovery, of the French and Indian Enemies At which time your Petition^r met with a very Sore Mischance, by a fall which he had in pursuite after the Enemy) which so wounded and bruised one of yo^r Petition^rs Arm's, That he lost the use of it a long time, nor never likely to be his own Man again: tho' Cap^t Negroes took great care of your Petition^r in his Lameness and sent him To Doct^r Thomas Packer att Portsmouth to get help for him (where he lay under s^d Packers hands four Moneths) at length finding that he could do no more for him) returned home and remained lame for near three years And being not able to work, whereby to get his living, was forced to be beholding to his Neighbours, who took pity on him by affording him reliefe, The said Packer took your Petition^r to cure by Cap^t Negro's order & as s^d Negroes told your Petition^r s^d Packer should be paid for what he did by the Country (your Petition^r concluding it was so done Bnt s^d Packer deny's and Saith he never had any Such order nor as yet recd a peny, and this Summer hath arrested your Petition^r for what he did for him, who was then forced to give him a bill to pay him Eight pounds and fifteen Shillings by the first of October next which he is not able to do of himself

Humbly prays yo^r E^xcy Hon^{ble} Conncell & representatives to take it into yo^r Serions considera^{on} and order that the s^d Packer may be paid the s^d sum And also to grant yo^r Petition^r some reliefe in this his distressed Condi^{on} And your Petition^r as in duty bound shall ever pray &c.” — *Mass. Archives*, vol. 71, p. 380.

This petition was presented in the second session and with it was filed the following affidavit:—

“the Testemoney Sarg^t Joseph Smith and Daniel Gott of full age saith a bou^t Nine Years sense being souldiers, und^r the Command of Cap^t Isaac Neagos att york being sent on a scout by sd — Cap^t Negors Will^m Bale being on sd scout With them also in pay under yo^r s^d Negoris Command att sd time: by an axsedant s^d beall tuck a fall Which Much bruised and hurt one of his armes Which was acation of Long Lameness to him

JOSEPH SMITH

DANIEL GOTT

Joseph Smith and daniel gott above named personally before me the subscriber and maid oath to the truth of the above written

ABRA^m PREBLE Justis a peace.” — *Ibid.*,

p. 382.

These papers were read in Council on the fourteenth of August and sent to the representatives, but action thereon was deferred until the present session, when on the fourth of November they were read in the House and referred to a committee. On the twelfth the resolve which constitutes this chapter was reported by the committee, passed, and sent to the Council, for concurrence. On the next day it was read and concurred in, and consented to by the Governor.

The order in Council* for the payment of this allowance was passed December 10, 1707, and the province treasurer's account † shows that it was paid.

The captain under whom Beal served was probably Isaac Negus or Negroes of Taunton, cooper, who, according to Savage, married, April 7, 1679, Hannah Andrews. The scouting party was apparently in quest of the perpetrators of the Spruce Creek massacre, concerning which Fike makes the following entry in his journal:—

“May 9, 98. Enoch Hutchins was killed by the Indians at Spruce-Creek, as he was at work in his field, & three of his sons Carried away. The same day Joseph Pray of York was wounded, it is likely by the same Indians, w^m he supposed to be 15 in number.” — *Proc. Mass. Hist. Soc.*, 1875-1876, p. 132.

The editor of the journal appends the following interesting particulars, referring to Enoch Hutchins and his sons:—

“‘An old man,’ says Williamson, who does not give the name. Two of the sons were Jonathan and Samuel. Among ‘Captives Rec^d’ Jan. 17, 1698-9 (Mass. Archives, vol. 70, p. 398), is ‘Samuel Hutchings of Spruce Creek, taken in May Last.’ Same date, remaining a captive, ‘Benjⁿ Hutchings of Spruce Creek.’ Vol. 70, p. 525, in list of those for whom Benjamin Hutchings and others petition for help to ransom, May 29, 1704, ‘Jonathan Hutchins taken from Kittery May 9th 1698, agged about fifteen years.’” — *Ibid.*

Of the four who fell in Beaucourt's attack upon Lancaster, July 31, 1704, one was Benjamin Hutchins. See the note to chapter 71 of the resolves of 1704-5, p. 426, *ante*.

* Executive Records of the Council, vol. 4, p. 497.

† Mass. Archives, vol. 123, p. 29.

Chap. 49. This chapter is from council records, vol. VIII., p. 323, and archives, vol. 71, p. 431.

Immediately after the attack on Oyster River, which is described in the note to chapter 27, *ante*, the council of New Hampshire ordered out scouts in pursuit of the enemy. By the twenty-third of September these scouts had returned, and from the report of Lieutenant-Colonel Hilton, given below, it seems probable that some, at least, of the attacking Indians had come from Acadia, probably to wreak vengeance upon Chesley, who had been conspicuous in the recent expedition against Port Royal, as narrated in the note above referred to.

The following is the record of the proceedings of the council on the twenty-third and twenty-ninth of September in reference to these scouts, and of the measures subsequently taken to strengthen the New Hampshire garrisons:—

"Pursuant to his Excellency's letter of the 19th instant, the Council met and Lt. Colonel Hilton, Major Smith and Capt. Davis were sent for to consult matters relating to the Enemy, who lye skulking at the head of our Rivers.

Lt. Colonel Hilton accordingly appeared at this Board and acquainted the Gentlemen of the Council, that on Thursday last he set out from Exeter with fifty four men as a Scout, after the Enemy; he traced the woods from Kingstown to Cochecha, and so towards Winnapissauga pond and made discovery of the tracks of that party of Indians which killed Capt. Chisley; they were gone clear off, and as he thinks to Port Royal by way of the said pond, and in coming back he discovered the tracks of a new party of Indians, and followed them within two miles of Cochecha, and soe lost their tracks, and then came home and sent out fifty six fresh men from Hampton, on Monday morning last, who was to tarry out five days; and soe proposed to the Council that Dover and Portsmouth should each send out the same number in course, which will last till the Indian Harvest is over. He alsoe desired the advice of this Board, whether what he offers as to sending out men from Dover and Portsmouth, be proper and needful or not.

The Council advises thereto:—Major Smith and Capt. Davis, were likewise present at this Board in Consultation."—*Provincial Papers of New Hampshire, vol. II., p. 565.*

"Whereas Phillipp Chisley, of Oyster River, in the said Province, hath made application to this Board, that several Garrisons are much weakened and in distress by reason of the Indian Enemy having lately killed several of the Inhabitants belonging to such Garrisons, to wit, at the said Phillipp Chisleys Garrison, the late Capt. Chisleys Garrison, and Ensign Jones Garrison.

Ordered, that the Secretary write to Capt. James Davis, that the Scout of tenn souldjers under his Command be placed and stated at the said several Garrisons that are most weakened and in distress, according to his discretion, and that they remain where they are soe placed and stated, till relieved by the several Captains of the several Towns to whom they belong; and that the said Captain Davis furnish them with provisions which he received out of the Treasury; and when such provisions are spent, that the said Capt. Davis apply himself to the Treasurer for a further supply; and when such Scout are relieved, those that relieve them are to continue from time to time in such Garrisons where they are placed, till further order."—*Ibid., p. 566.*

Four days after the affair at Oyster River the Indians made the descent upon Winter Harbor which is described in the petition and the annexed memoranda, which are printed below and upon which the resolve that constitutes this chapter was founded. The New Hampshire scouts above mentioned had anticipated the orders of Governor Dudley, and the Governor had ordered Massachusetts troops to join in the pursuit, as appears by the following entry in the executive records of the Council of Massachusetts:—

"Sept. 24, 1707. His Excellency acquainted the Council, that by two Expresses in the night past, he was Advised that the Towns of York * and Wells were alarm'd, upon certain

* The following letters from Captain William Heath, — one to William Pepperrell, and forwarded by Theodore Atkinson, clerk of the Superior Court of New Hampshire, and the other to Governor Dudley, — and extracts from letters of Secretary Story and Mr. Treasurer Penhallow to the Governor, show the state of alarm at York, and the call for help from that town, induced by the tidings from Winter Harbor and the belief that the enemy were attacking Wells:—

"Sr. Wells is doubtless Attract, we have hard ye great guns the enemy atact the shalops at Winter harbor Sabbath day at 2 of ye clock afternoon & have slain Benj. Dunnell of York the Enemy are judgd not less than three or four hundred French and Indians, for God's sake Post forward that we may have speedy help or they will be two hard for us.

York, Sept. 23, 1707.

WILLIAM HEATH.

Seery Ackteson I pray

Hasen this forod for helpe, your

WM. PEPPERELL.

A Copia sent to Coll. Noyce of Newbery Imediately by

(Recd 4 after one. T. A.)

Provincial Papers of New Hampshire, vol. II., p. 566.

"With Submision to yor Excellency the Enemys spyes are amongst us every day 21st Instant the Enemy about fifty Canoes fell on three of yor fisher men in att winter Harbor one of the shalops put to sea the other two Crewes got boath on bord one shallope nine in all fought the Enemy three howers in the fight we Lost Benj^d Dunnell of York a Valliant man: the men ware all Good and Valliant that ware thair Leut^t Aslin of yor Johnson Harmon daceon of the church of York being thair they told me thay Kild severall of y^e Enemy Dead In thair Canoes being with In two rods of them the men thus quirted one to helm fore to the ores fore to the guns the gunners discharged about six Pounds of Powder at the Enemy so neare thay could hardly Keepe the blades of thair ores from the Canoes: 23 Instant maney smooks ware sene at Cape Porpes: the great guns ware fired at Wells one being a signell to us of thair being attack Mr Parker being resolute to sallie to Wells with the quenes stores I ordred Leut^t Lyon on bord with 27 men to gard: Cap^l Heane and I mustred about fifty men and marcht by land before we came to Wells we met with men y^e told us the Enemy ware not at Wells I asked y^e Reason of firing the great guns thay said Cap^l Brown told them thay ware fired to bring oult Heath to Towne the hopefull he will be in better Earnest when he Calles for oult Heath againe this day I Look for Leut^t Lyon and y^e stoopie in which I intend to sen those things to Boston: I have so long sought for and endeavored

THEODORE ATKINSON."—*Pro-*

information of a Body of the Enemy French & Indians, to the number of two or three hundred landed at Winter harbour on Lords day the 21st current, who had surprized a shallop there, and had kil'd one Man.

And that upon this intelligence he had already ordered four Troops of Horse and a Company of Dragoons from the Country * of Essex † and Captⁿ Lanes Company at Newichewanock & Col^l Hilton with a Company from the Province of New Hampshire, immediately to advance to their reliefe and Assistance, And had also ordered Col^l March with his Company on board the Brigantine Hope with a further enforcem^t of men to sayle to Winter harbour, & likewise Her Maj^{ty}'s ship the Province Galley to cruise along the North Shoar, and to visit all the harbours from Saco to Casco Bay, and further East to intercept the Enemy in their drawing off, and return.

And was sending by her a further Recruit of Twenty five men to the Garrison at Casco.

And proposed to have the Advice of the Council, if any thing were further to be done." — *Vol. 4, p. 466.*

an opportunity to send Sir if this bodye of the Enemye Com on us thayl be more then we I haue bin in sirc of them Latley fore dayes and thre nights hard the guns fired at oyster Bluer thoute it had bin a trauing till y^e next Day I haue but 30 men that I will venter withall the rest I had reather be without then haue them in y^e woods I beg Your Excellencyes Pardon I haue bin two bould and trubbellsom dwo desier to Remaine sr Yo^r most humble sruant till Death

York Septmbr: 25: 1707:

WILLIAM HEATH: —

The Indians with the shallop and thair Canoos pursued our men fore miles to sea." — *Mass. Archives, vol. 71, p. 405.*

"May it please yo^r Excellency

Colonel Hilton this Evening is goinge over the River piscataqua with 100: men out of our province; Captⁿ Turner and the Rowly Troop are alsoe passing over noe further News yett where the Enemy are . . .

I am yo^r Excellency's humble ser^{vt}

CHA: STORY

5: a Clock in the Evening

Thursday the 25th 7th 1707." — *Ibid., p. 404.*

"Portsmth Sepbr. 25th 1707.

May itt please Yor Excellency

Since tuesday last, Euery thing respecting y^e Enemy, hath been in profound silence; and yett enery hour in Expecta^{cy} of hearing some desperate attempt Eastward. Cap^t Lane, yesterday from Wells, aduiseth that y^e occasion of Browns firing y^e great guns, was on purpose to alarm and call in seuerall y^e inhabitants y^t were stragld out but no Indian seen.

Those y^t Escaped from Saco, peremptorly assert, that they killd 4 or 5 of y^e Enemy besides severall whom they say were wounded No sooner had they quitted y^e boat, but y^e Indians became masters of her, who pursued the other boat at least 4 miles, and w^e they found itt impossible of taking her, put itt at Richmonds Island.

Yor Excellency's care in couering these parts is uery singular; and had those y^t were lately slain, been so prudently cautious as they ought to haue been, might haue Escapt — but *quem deus vult perdere prius dementat.*

Captⁿ Herriek, Somersby & Wadly are gone to Wells by way of Newchewanague; Cap^t Turner and Peirson arrived here by two of clock, of whom care was instantly taken to transport y^m selues and horses. Col Hilton at same time went hence with 100 men, whom I supplyd.

Sculking Indians are Euery way seen: and it's probable that because y^e Enemy were discourd, they diuerted there first design, and now are forming some new Enterprize, to come in a body or disperse into lesser parties. . . .

with all Due resp^{ts} I remain Sr Yor Excellency's most humble ser^{vt}

SAM^{ll} PENHALLOW." — *Ibid.,*

p. 406. See letter from Dudley to Hilton on *p. 772, post*, mentioning the above letters.

* *Sic.*

† The orders of advice in Council upon muster-rolls presented show that warrants were ordered for payment of troops from Essex County under the following officers; viz., Captain John Whipple, of Ipswich. — *Executive Records of the Council, vol. 4, p. 494;* Captain John Wadleigh, of Salisbury (dragoons). — *Ibid., p. 507;* Captain Henry Sommersby, of Newbury. — *Ibid., p. 506;* Captain John Peirson, of Rowley. — *Ibid., p. 514;* Captain Joseph Herriek, of Salem (Beverly). — *Ibid., p. 521;* Captain John Turner, of Salem. — *Ibid., p. 521.* The province treasurer's accounts (*Mass. Archives, vol. 123, pp. 21 and 22*) show that the warrants were paid.

Colonel March, who, as has been shown in the note to chapter 27, *ante*, upon his return in disgrace from the late expedition to Port Royal, had received orders from Dudley to proceed to Winter Harbor with a company of soldiers, was hurried off upon this alarm, in the brigantine Hope, Captain Samuel Waters, taking with him materials for repairing the fortifications there. Warrants for reimbursing March his expenses for brick and lime for the fort at Winter Harbor, as well as for previous expenses, and also for paying the muster-roll of the company last mentioned, were advised to be issued (*Executive Records of the Council, vol. 4, pp. 547 and 552*), and the payment thereof was charged in the treasurer's accounts. — *Mass. Archives, vol. 122, pp. 297 and 324, and vol. 123, pp. 22 and 28.*

The muster-roll of the brigantine Hope was allowed from April 3 to October 18, 1707, and that of the Province Galley from February 15, 1706-7, to November 15, 1707 (*Executive Records of the Council, vol. 4, pp. 455 and 515*), and entries of the respective payments were made by the province treasurer. — *Mass. Archives, vol. 123, pp. 18 and 19.*

By the following contemporaneous minutes the enemy appear to have hovered about the eastern frontier throughout the month of September, occasionally killing and scalping such of the inhabitants that were incautiously exposed to their fury: —

"*Piscataqua, Octob. 2.* We are still infested with the Sculking Indian Enemy, who on Sabbath Day Evening last at *Nichawanock* way-laid *Nicholas Smith, James Ferguson* and his Wife as they were Riding home from the Publick Worship, and fired upon them, the former they wounded, but he made his escape; the two latter they kil'd and scalp't: Four of the Inhabitants well knowing the Enemy's walk, way-laid them in their drawing off, & firing at the first they could discern, making him to fall, so terrified the rest, tho' ten in number, that 7 of them dropt their Packs and fled; in which were found 20 Beaver Skins and 3 dry Scalps, supposed to be some of those lately taken at *Oyster-River.*" — *Boston News-Letter, No. 181.*

"*Sep. 30, 1707.* Old widow Horn [Elizabeth, widow of the William who was killed June 28, 1689. — Note by Doctor Quint] was taken by the Indians, near the Lower Corner of Capt Gerishes field, as she travelled the Road — the same Day several Troops passed the Road both bef: & after she was taken." — *Pike's Journal, in Proc. Mass. Hist. Soc., 1875-1876, p. 146.*

The following item in the News-Letter gives further particulars in regard to the pursuing forces:—

"*Piscataqua, Sept. 26* An Express coming from Wells which was forwarded to his Excellency, giving an Account of 300 Indians seen last Sabbath-day [September 21] at Winter Harbour, and of their taking a Fishing Shallop, wherein *Benjamin Daniel* was slain, hath occasioned the Governour to order the several Troops of Capt. *Turner*, Capt. *Sumersby*, Capt. *Herriek*, Capt. *Wadley*, and Capt. *Pearson*, besides Col. *Hilton* with 100 men from hence to visit the Eastern Parts, with the Forces in the Province of Maine, to receive and repel the Enemy in case of any Insult from them: And 'tis probable the Enemy being discover'd, has diverted their first design. Those in the other Shallop who made their escape when *Daniel* was slain do affirm, that they kill'd 4 or 5 Indians, besides several whom they wounded. Capt. *Lane* came from Wells on Wednesday last, but no Indians seen; the firing of the great Guns there was to alarm the people about those Parts."—No. 180.

The petition mentioned in the preamble to this chapter is as follows:—

"To his Excellency Joseph Dudley Esq; Captain General and Commandr in chief in and over her Majties Province of the Massachusetts Bay in New England, and to the Honble Council and Representatives of ye sd Province convened in General Assembly November 1707.

The Petition of Johnson Harmon Lt Austin, Josiah Black, Jno Harmon, Jno Cole Timothy Day, Nic^e Cane, and Thomas More, all of York in ye Province of Maine—

Humbly Sheweth—

That yor Petition^{rs} all concern'd in a fishing voyage, went on ye Lords day vizt ye 21th of Septemb^r last past into Winter harbour and there anchor'd, and that about Noon there came in Sixty Canoo's, and in them abt Two hundred and fifty Indians (to ye best of our Judgment) and fifty more of ye Enemy appear'd on ye Shoare, ye Canoo's came off in a full Body towards us, but we would not discharge on^g Guns at y^m till they came wthin Thirty yards of us, at w^{ch} time we fir'd a whole volley at them, and ye Enemy did not offer to fire on us at that time, but soon after came on violently wth Shouts and fir'd briskly on us, in somuch that after we had discharg'd our Guns Sundry times, we were oblig'd to betake ourselves all to one Shallop, immediatly cutt and came to Sail, ye Enemy boarded ye Shalop w^{ch} we left instantly wth abt fifty men, got her to Sail and ingag'd us wth sd Shalop and Canoo's for ye space of three hours, wee were very well provided wth Arms and Amunition, and made ye best use of it we could possibly, but we could not Say w^t damage we had don to ye Enemy, till we came at some greater distance, & yⁿ we Saw three Indians dead in their Canoo's, and to ye best of our Judgment we kill'd and wounded y^m Enemy thirty or forty Men, for we had very fair Shotts at y^m and very near for ye first two hours. Wee did not expect any Quarters from y^e Enemy wherefore we Resolved to Stand by one another as long as we had any Life left and haveing lost bnt one man in ye fight, vizt Benjⁿ Daniel,* we were wonderfully encourag'd to psue ye Enemy, we were well provided wth powder and Shott, for an order was made among ns y^t Every man should cary wth him a pound of powder and bullets answerable, besides w^t we had about us, w^{ch} Providence so order'd, y^t by it we Saved our Lives and Liberties, and destroy'd so many of those bloody and Barbarous Men, who made the best of their way and stood Eastward from us, they went off very melancholy for they did not answer us wth one shout tho we gave y^m many, and we hope y^t this our good Service will discourage them from attempting some of our Frontiers and fishery.

Wherefore yor Petition^{rs} in behalf of y^mselves, and ye widow and children humbly pray yor Excellcy and all the Honble Court y^t you would be pleas'd to allow y^m what you in yor Goodness shall think fit, whereby they may have some Reparation for the Loss of their cloathes and Tackling w^{ch} were taken by y^e Enemy in ye Shallop, and we most humbly add and pray yor Excellcy & to take some care of ye poor Widow and Fatherless children.

And yor Petition^{rs} as in duty bound will ever pray &c;—*Mass. Archives, vol. 71, p. 429.*

The memoranda above referred to—one signed "Ja Russell P^r order," and signifying the desire of the Governor and Council that the representatives make the petitioners a suitable recompense; thus, "The Service mentioned in the before mentioned Petition is well Accepted by his Excellency & Council; and it is recommended To ye representatives To make Som suitable recompence to ye P^{rs}ons Concerned—Voted in Council,"† and the other being a narrative of the engagement mentioned in the preamble—were appended to the petition. The latter was as follows:—

"Memorandum of the fight of our yorke Men in the two shallops att winter harbor Sept. y^e 21 : 1707 : that is the Minets their of

in those two shallops were nine men by Name: m^r Johnson harmon Lt Austin Josiah Black & John Harmon : which blong to the sholloppe which was taken by the Indians in the shollop saued was John Cole Benjamin Daniel Timothy day Nicholas Cane and Thomas More : The Indens Came of to them, as neer as Could be Judged in sixty Cannoes and. 250 : Men and att y^e same Time Judged of all hands to be : 50 : moors upon the shore

* Of Daniel, or Donnell, Penhallow relates that after he had received his fatal wound he exclaimed "I am a dead man!" yet recovering himself a little, added "Let me kill one before I die!" but he had not strength to fire; and of the encounter the same author gives, among other particulars, the following:—

"The engagement held about three hours, in which the Engll^{sh} spent about five pounds of powder, and when the enemy ceased their chase, they had not above a quarter of a pound left. The Indians were so bold and daring, as to attempt to take hold of the blades of their oars, as they were rowing. The number of them that fell was then unknown, because of a continued cloud of smoke; but it was allrmed, that nine were slain, and twice as many wounded."—*Indian Wars, p. 54.*

† *Mass. Archives, vol. 71, p. 431.*

the Cannoes Came of in a full body : our men see them att. 300 yards distance : and, they would not fier on them vtill they Came within 30 yards and then fiered a Volley vpon them. before the Ennemy offered to fier a gun. but then y^e Ennemy Came on Vialantly with shouts and armes that after. 3 shoots a peece our men ware forssed to betake all to one shollope and Cutt and Come to sail. and as our men Left one shallope. and Inbarkt the other the Ennemy borded the shallop Left : with a bout 60 : or 70 men and with in .2 rood Came to sail with that shallop and so fought with our men with their Cannoes and shallop for three : hours. our men ware well prouided with armes and amminison : and Could nott tell wth spoile they did vpon y^e Ennemy tell they Came to Lay att a distance : then they saw three Indens Kiled dead In their Cannoes but they Could not Judg they Kild and Wounded. Less in the fight : then thirty or forty for they had fair shots the first hour and halfe within 2 : or three rood our men Expected no quarter but ware Wonderfully sperited and Resolved to fight as Long as one had Life but god ordered it so that we had only one man Kiled in the fight : Viz : Benjmⁿ doniel our first four Men Mentioned. Lost : all their Cloths and Craft and a Gun which they had More then was in Vse : the shollop that was saued had neer a hundred bullets struck her

God ordered it so that this fight Came not with out sm^e Expecttation and desier of these Men althought nought not so. supernumerry : * but this Cosed them to Make an ord among them selues That Each man should a staning† stock of a pound powder and bullits ansverable : beside what they had to fier : a way vpon Loos ocations which serued all for Good service." — *Ibid.*, p. 432.

From the former of the two memoranda above given it would seem that the papers were first read in the Council and thence sent to the House. On the fourteenth of November they were read in the House and the resolve which constitutes this chapter was passed and sent to the Council, for concurrence, where, on the same day, it was "agreed to," and consented to by the Governor.

The order in Council‡ for the payment of the allowances granted by this chapter was passed December 10, 1707, and the province treasurer's account§ shows that they were paid.

Chap. 50. This chapter is from council records, vol. VIII., p. 328, and archives, vol. 121, p. 126.

The town of Concord, divided by the two streams (the North, or Assabet, and the South, or Sudbury, rivers) which, united, form the Great or Concord River, again dividing the town below the junction, found, from a very early period, the equitable apportionment of the expense of building and repairing the bridges which spanned all these streams a very difficult matter. In March, 1654-5, after long agitation, "and much weariness about these things," the inhabitants, "at a public training," voted to choose a committee of nine; three being from each of three "quarters," or divisions, into which the town was districted, to assign to the inhabitants of the respective divisions the duty and charge of keeping in repair the highways and bridges within their limits, and to determine the amount that should be contributed by the more favored of these quarters, or divisions, to the divisions bearing a disproportionate burden. The concurrence of eight members of this committee was necessary for a valid award, which, it seems, was made and acted upon; but this arrangement among the townsmen did not relieve the whole town from a disproportionate expense for building and maintaining bridges as compared with other towns in the county not bordering upon or divided by streams requiring to be as frequently spanned by bridges.

The opportunity for equalizing this disproportion, however, was offered by the passage of an ordinance|| by the General Court, ordering the County Court, upon notice of the need of, or of a defect in, any bridge in a "country highway," to appoint a committee to view and determine the same, upon whose report the magistrates were directed to apportion the expense of the required work among the several towns in the county, to be assessed and collected "according to the directions of the law for country rates." The inhabitants of Concord, in order to avail themselves of this new ordinance, presented to the County Court the following petition :—

"The humble Petitione, of the inhabitants, of the towne of Concord humbly sheweth,

That whereas there is a late order of the Generall Court, that the Buildeinge of Bridges, is referred to the severall Counteties, and whereas your petitioners were forced by the former court order to Builde two Bridges, the one very Large the other not Smalle, and the places Layde out accordeinge to order, and for Publique use to Nashawaye, and to Conecticote, allsoe a third Bridge leadeinge to Chelmsford, haneinge about two yeares agoe, bene drinen downe by the violence of waters, All these your Petitioners haue bene forced to expend a great estate the last yeare but one, and that much beyond there Abilities, and though we haue rayased them vp with much difficultie, yet neither of them are finished, but we are liable to be presented, by the townes which are to passe ouer them, neither of them beinge safe for the Countrys use, Therefore accordeinge to the late order, we make our Complainte to the Honored Court to appointe a Committee to veiw those Bridges of ours and to Judge thereof, accordinge to there discretion and your Petitioners shall pray : &c :

JOSEPH WHELLER
JAMES BLOOD
GEORGE WHEELOR
JAMES HOSMER
GEO. HEAWARD
JOHN SMEDLY

THOMAS BROWN
JOHN HILD
ROGGAR DRAPARE
BAPTIS SMEDLYE
WILLIAM HUNT
ROBERT MERRIAM

ROBERT FLETCHER
HENRY WOODIS
MOSES WHEATE
WILLIAM HEARTWELL
THOMAS WHEELER
THOMAS RATMAN

in The behalfe of the Rest." — *Middlesex County Court : Files.*

* *Sic.*

† *Sic.* : should have a standing?

‡ Executive Records of the Council, vol. 4, p. 497.

§ Mass. Archives, vol. 123, p. 27.

|| May 29, 1655.

The Court, April 1, 1656, probably at the same term in which the above petition was presented, appointed a committee consisting of Deacon [Ralph] Mousall, Deacon [Ephraim] Child, and Goodman [Edward] Converse, senior, “to view Concord Bridges and consider what is required to be done therein by the County according to Law. & make their returne to the next Court of this County.”*

But there were other towns in Middlesex County, maintaining expensive bridges in public highways, the inhabitants of which felt entitled to similar consideration; and accordingly the Court, on the thirtieth of December, before any return had been made by the above-named committee, or, at least, before it had acted upon any such return, passed a more comprehensive order, appointing a committee with more extensive powers, as follows:—

“Whereas many complaints are made to this Court concerning the defect of Severall Bridges with in the limitts of this County This Court do therefore according to the Order made & appointed by the Gen^lall Court in that case, nominate, Ralph Mousall of Charlestowne, Capt. Ingh Mason of Watertowne, Edw. Goffe of Cambridge. Ens: Wheeler of Concord, Ens: Tho: Noyse of Sudbury, Capt. Edw: Johnson of Woburne, Abrah^m Hill of Maudlen. Willm Cowdre of Redding, Jno. Prescott of Lancaster, Jno. Parker of Bilerica, & Thomas Addams of Chelmsford, who are hereby required to meet together the first third day in March next, at Cambridge, ordnary. by nine of the clocke in the morning, then & there to consider what Bridges are needfull to be made & maintained within the limitts of this County for the behoofe of the Country, And as they shall see meet to view the sen^lall places themselves or by such as they shall appoint, and to adjourne their meeting to any other time or place, that they or the Major part of them being so met to gether shall see needfull, and to make returne of What they shall do herein vnto the next County Court to be held at Cambridge.—And for the preventing of damage to travellers in the meane time, this Court do order that all Bridges already made shalbe repaired at the care & charge of the sen^lall townes & p^{re}incts wherein they ly, who shalbe repaid againe their Just charges expended thereon, if vpon the returne of the Committee this Court shall find it equall to allow the same.”—*Middlesex County Court Records, 1649-1663, p. 99.*

This larger committee dny made their return to the Connty Court held at Cambridge, April 7, 1657, at which Court the judges ordered that the clerk present it to the General Court “for their confirmation and settling thereof.”

The following is the return thus presented, together with the decree of the County Court, and the action of the General Court, thereon:—

“In obedience to an order of the County Court, held at Charles Tonne, Decemb 30th, 1656, wee, whose names are vnderwritten, meeting at Cambridg, 2d 1 mo, 1657, to weigh and consider what briges are fittest to be built & mainteyned at the countys charge, after due examination of things, wee finde the bridges of this county already erected & to be erected (as wee conceive) to excede for number & charge all the other countyes w^{ch} in this colony, and wthall considering the greate necessitie of bringing in all that are alike v^{se}full, w^{ch} would amount to such a charge that wee question the countyes abilitie to mainteine & beare the charge thereof, and having some experimentall knowledge that townes will be more cautious in laying out their onne costs then the countyes, both in building & repaying, doe therefore conclude, according to our weake a^phensions, that as few bridges should be built at the countyes charge as possibly maybe, only those two bridges, i.e., at Billirrikey & Misticke, to be finished at the countys charge, and for tyme to come maintained in repaire by the townes & p^{re}incts in which they are, and those townes that are forced to build bridges more for the passage of others then their onne benefit, may have help from the county, by this honored Courts appointment, if their burden in building bridges excede their sister townes, and in case any town shall propound to this honored Court for erecting of bridges contrary to what is hereo present, wee are ready to give further account to this Court why the county should be no further charged that way. And whereas it appears to vs that Concord, Sudbury, & Lancaster are at a greater charge in bridges for the publique vse of the countrie then some other of their neighbor townes, wee conceive it meete that they be abated as followeth: Concord & Lancaster all their rates, whither paid or to be paid, to those two bridges alone named, & Sudbury the one halfe of their rates to the said bridges, and their abatements to be satisfied to the vnderakers of those bridges, or repaid againe to such as have paid, as followeth: i.e., Chelmsford, two pounds; Billirrikey, one pound; Charles Tonne, ten pounds; Meadford, two pounds; & what these shall fall short of satisfying those alone menconed abatements, made vp out of the county stocke, either fines or otherwise, as the Court shall please to determine.

Provided alwayes wee thinke it meete that no stop be made of any the abovesd abatement, so as to interfere or obstruct the performing of the present engagement respecting those bridges.

WILL[^] COUDREY,
ABRAHAM HILL,
JNO[^] PERSCOTT,
JOHN PARKER.

JOSEPH WHEELER,
THO: NOYES,
EDWARD JOHNSON,

RALFE MOUSALL,
HUOH MASON,
EDWARD GOFFE,

7: 2 mo, 1657.

This retourne being made to y^e Court, It was accepted by y^e Court, who orders that this retourne of y^e comittees shall be presented to the next Gen^ll Court by the clark of y^e Court for their confirmacōn & settling thereof.

THOS: DANFORTH, Recorder.

This retourne, above menconed, so signed, was accordingly presented to the Generall Court the 18 3 mo, 1657, who did allow, approve, and confirme the comittees determina-

* Middlesex County Court Records, 1649-1663, p. 81.

tions in reference to ye matters conteyned in the retourne, according to ye County Courts desire, any lawe, vsage, or custome to ye contrary notwithstanding." — *Mass. Colony Records, vol. IV., part 1, p. 306.*

At the next County Court, held at Charlestown, in June, a complaint was made by the inhabitants of Concord of a "want of meet allowance from the county;" whereupon the Court ordered the clerk to notify three or more of the committee last appointed to appear at the next Court to be held in Cambridge in October. Accordingly, at the time named, a new committee, consisting of Captain Hugh Mason, Captain Edmund Goodenow, and Sergeant William Stittson, was ordered to "consider of the complain't made by Concord in reference to their Bridges, and make report to the next Court of this County, How far they find them necessary for Country high wayes, and w^t they apprehend is meet to be allowed them from the County, in reference to their charges, (Exceeding y^e p^{ro}portion with other townes) Expended on their Bridges."*

At the December term before the committee last appointed by them had reported, the Court having ordered and empowered the county treasurer to levy thirty-five pounds "on the small Townes & precincts of this County, the said summe to be payd in such graines p^{ro}portionably as to the Country rate, and at the same prices" for reimbursing John Fomiell for his loss "by building Mistick Bridge," further ordered "that Concord shal be Exempted from paying any part of the said Summe, In consideration of their charges[†] with th^e other Townes to be freed there from, in reference to their owne charges, by Bridges in their owne Towne."[‡]

The committee's report was not presented until April 6, 1658. It still remains in the Court files, but so mutilated and obliterated as to be scarcely legible. Enough, however, may be deciphered to show its drift and conclusion. The following passages are given with some conjectural additions to supply missing words and letters. The committee say they "apprehend that our neighbours at Concord [ha^t]ue ben at more Charge in erecting of Bridges all things Considered then any Towne in [the[?]] County — they haneing erect[ed[?]] 3 Bridges of Large Dementions all of them but whether all or any of them Can be accounted County Bridges we Justly question — for if that [is the[?]] t^{re}w Definition of a County Bridge which the Comitie hath agreed vpon namly such townes as are forced to buil[d[?]] Bridges more for the Cntries vse then their owne Highway[ay[?]] then we Conclude that [t^h]ose 3 Bridges nor any of them Can Co[m]e on [t^h]at account so as to draw forth any releife to [them[?]] from the County for it is euidant that that Bridge which makes a passage ouer the riur [near[?]] Elints house Cannot be seruiceable [to[?]] the County at all there being no townes [in the prov[?]]ince beyond them but Chelford and [the highway from Chelmsford[?]] into the bay being through Billerke[y and[?]] If at any time any of them haue ocasions to Concord it is but a mile and a halfe farther by Ballerekey then to Com Direct and the way [by[?]] Billerekey far better then the other is [As[?]] for the 2 other Bridges which are erect[ed[?]] wh^{ic}h our neighbors at Lancaster Doth som time make vse of wee Conceine that they are nor vserfull many fould for their owne towne then th^ey[?] Can be for the County — for there is none but Lancaster that Doth make vse of them and they b[ut[?]] in winter seasons it being neerer for Lancaster [to the[?]] bay by Sudbery at least 4 If not 5 miles and so is Constantly made vse of thron all the sumer mo[un]ths [bu[?]]t for Concord they are of Dayly vse there being [] houses erected on the further side of the [] Bridge whereof our Right worthy maiors [is one[?]] and for the other it being of vse Dayly [in[?]] their feeding and transporting from their [farms we[?]] Conceine that Concord Canot be without it [for[?]] their owne P^{ro}tickler and Doe recieue more [bene[?]]fet by it many fold then the County doth or Can

The p^{ro}uses Considered and [Especially[?]] the abatement that hath ben made to Concord by the Comitie wee Conceine That Concord hath no Just gr[ou]nd of co[m]plaint for releife from the County [but[?]] wee Desire to Leane our owne ap^{re}ensions[¶] [and[?]] finall Determination to the Honored [Cou[?]]rt now assembled at Cambridg

[Wi[?]]tnes our hands

6. (2) 58

HUGH MASON
EDMAND GOODENOW
WILLIAM STITTSON."**

Thus the method proposed to equalize the disproportionate outlay of Concord for the maintenance of bridges appears to have been settled to be by reducing the proportion of the town's contribution to the county rates to the amount which would fall to the town if the county bore an equitable share of the expense of highways and bridges necessary or convenient for use as county thoroughfares. Having established this rule, and the amount of abatement having been determined and allowed to Concord, that town was expected to keep her highways and bridges in proper repair, and failing to do so was presented by the grand jury, December 28, 1658, for want of a proper railing to the bridges over the North River, and the South River, and to the bridge at the north end of the town over the Great River, and for other insufficiencies in two of these bridges, and in the Fort bridge, and the bridge at the east end of the town near the clay-pit, and the "hither end" of Elm-Brook Bridge; and also for want of repair of a highway. Due warning having been given of this presentment, the inhabitants applied to the General Court, by petition, representing the inadequacy of the allowance received out of the county rate, and praying for relief; whereupon, in the November session, 1659, the Court passed the following order:—

"In ans^r to the p^{et}ition of the inhabitants of Concord, it is ordered, that Cap^t Lusher, Left Roger Clap, & Deacon W^m Parkes shal and hereby are impowred as a co[m]mittee to

* Middlesex County Court Records, 1649-1663, p. 119.

† *Ibid.*, p. 123.

‡ Manuscript mutilated.

§ Manuscript mutilated and illegible.

¶ Manuscript illegible.

¶ *Sic*: apprehensions?

** Middlesex County Court: Files.

heare & examine theire complaint, & what they shall finde their chardges expended in vpholding of such bridges as are orderly allowed for county bridges to be more then their due proportion, compared with their neighbor townes, shall be annually paid them by the Tresurer of that county, any former custome or order of this Court setting the same notwithstanding." — *Ibid.*, p. 404.

The result of this application to the General Court seems to have been the opening of the question of allowance by the County Court, since a warrant, dated March 15, 1659-60, is on file signed by the county recorder directing the constable of Concord to warn the town to send one able and meet person, as their deputy, to consider and agree with the rest of the county for the settling of county bridges. Upon this the officer returned Thomas Brooks and George Wheeler "deputies for the town for bridges." On the third of April the court appointed a committee for bridges, consisting of eleven persons, the names of all of whom except William Kerley, senior, Jonathan Danforth and Thomas Brooks are subscribed to their report. In the record of this appointment it appears that Brooks was the only member from Concord. The committee made their report on the day last mentioned, as follows:—

"The Comitte in reference to the Bridges in Midlsex met together at Cambridge the 3^d of the 24th mo 1660 after long debate and discussing all the Allegacons of Concord and others hane on mature deliberacon as much as in vs lyeth determined the act of the former Comitte to be Equal and most Conducing to publike Satisfaccon; for the Reasons by them then given in and that may be farther produced to which end wee hane Appointed Captain Francis Norton; Captain Hugh Mason and Leutenant Goodenow to Attend the honoured General Court vpon notice given them thereof, also Joseph Hills Senr or any thre or two of them.

FRANCIS NORTON
HUGH MASON
JOSEPH HILLS
EDWARD CONYERS

RICHARD JACKSON
EDMUND GOODENOW
WILLM COWDRY
JAMES PARKER." — *Mid-*

dlesex County Court: Files.

Upon this report the County Court, at the same session, passed the following decree:—

"This Court Prseing the retorne of the Comitte abt y^e Bridges of this Coun. & finding that Concord who was the greivd Pty, are yet vnsatisfied, do Judge meet that the said Comitte, do meet together at Cambr. the 3rd tuesday in this instant mo. by ten of the clocke in the forenoone, to consider & determine what Bridges they Judge meet to be allowed as Coun Bridges & that retorne thereof be made to mr Russell & mr Danforth, who are if need be to give notice, vnto the Comitte appoynted by the Gefall Court, that they meet together to issue the matter, according to the appoyntm^t of the Gefall Court, & retorne may be made vnto y^e next Court of Elecon." — *Middlesex County Court Records, 1644-1663, p. 169.*

In March, 1661-2, the town was again presented for a defect in the North Bridge over the North River, and a warrant was issued to the constable, as before, to warn the inhabitants to appoint some one to answer for the defect. Nothing further appears to have been done in regard to this presentment unless the following report of a committee appointed by the selectmen of Cambridge has some relation to this matter:—

"we being apoynted by the selecte mene of Cambridge to se the sofetiency of that part of Concord hye way that is at vine Brooke Bridge: and to Make or Retorne to them: doe by Thes presents afferme that it is at This time sofetient according to our knolegde and skelle

MATHEW BRIDGE
SAMUELL STONE

This: 11th 10th 1662." — *Middlesex County Court: Files.*

On the nineteenth of January following, the committees appointed by the General Court and by the County Court agreed upon a report finally establishing a rule for rendering equal the burdens of those towns, in Middlesex County, which were subjected to an undue proportion of expense for the maintenance of bridges, as follows:—

"The agreement of the Comitties of the Ge. Co: and County of middlsex; In Refrence to the bridges in Concord, & all others in that County as foloweth; Wee of the Comitte for bridges in the Countie of middlsex of on^e second meting by order of the County Court, vpon the 17. day of the second month. 1660. whose names are vnderwritten; vpon further Information; Inquisition discussion and Consideration, hane Cleerly concened and Concluded, that the Towne of Concord hane no Just ground of Complaint or allowance from the Countie in Respect of these bridges; for the Resones herofore expressed;

The three briges they foot, and plead vpon; are for there owne proper. special and peticier Conserment, for there sawmill; Ironworkes & other ocations and not, necessary for the County or Contry. and may at there pleasur be deserted;

2ly If any argument be, because they wear made during the law for each Countie to make and maintaine their owne bridges (which they were not only Repaired or some addition) Then all other Townes; must bring in there Charges for the like, and be allowed for it;

3ly If the argument be that their burden is abone there abillitie, then other Townes burdines Compared with theires; Advantages, and disadvantages Considered, they find no Ease at all; Instance Sudbury at Charges 25^{li} yearly for Repairing one peece of highway in there Countrie rode, besides all others of like nature,

4ly Though Concord despended vpon som of ther bridges; seuce the order for Countie bridges yet neither those bridges nor any of them, wear vnder taken by order of the Countie as was billerlea & mestick, bridges; therefore not to be charged on the Countie, more then Sudbury; watertowne Ridding & some others; who hane no expectacon of personall profits Comparable to Concord,

5ly wee are Credibly Informed that the way from lancaster for whom & on hose mocon it is alledged, that one of Concord bridges was erected at lest in part; now is found neerer by three or four miles, then to Come by Concord and also abeter way & such as needs no bridg whensoever lancaster can pass from their owne Towne, and also if the Countie or Country shall need a bridg there that it may be helpe for teci pounns Charg, neer Stones farme in whipsufbridg and for avoiding all further truble to Courts & Contry, we thinke mete & conclud that the Twentie pounns formerly granted to Concord be made vp thirtie pounns, (*viz.*) Teen pounns more in Respect of there charges of that natur, be yend som other Townes in the Countie, which Ten pounns shall be Raised in proportion on Charleste, wattr^e wooburne; Ridding medford malden;

6ly we Conceine and Conclud that bellirica bridg shall be so forr accountie bridg as to be vpholdn by the Townes of billerica Chalmsford and graton, and all such farmes as are there granted when they shall be Impruned in proportion to there Contry Rates;

7ly wee conceine that mestistike bridg should be vp holdn by the Countie or elce one halfe by the Towne of Charleste & the other halfe by Cambridg wooburn; Redding medford & malden in proportion as aforesaid;

8ly wee Conceine and Conclude, that the Townes of Concord sudbury lancaster billerica Chalmsford & Groton shall be free from Charges to all bridges Extant, sanc their own bridges; and as before specified, as also from such bridges as shall be mad in wpsufbridg as aforesaid.

lastly if this our Returne be not satisfactory we haue appointed Capt norton; Capt mason & Joseph Hills; on noties giuen them to attend any further agitation respecting this thing;

at a meting of the Comitte, apointed by the Generall Court (*i.e.*) Capt lusher liut Clapp, and deacon parks; it was Agreed & ordred that the Conclusion afore Resited shall stand firme and be an Absolut and final determination; in Respect of Concord and all other the Townes in the Countie of middlex; and for the Towne of Concord, Thomas Brooke & John smedly doe bind them selues and successors in one hundred pounns to John Stedman Treasurer of the Countie, that their Inhabitants shall Rest in the Determination afore said (witness our hands) which bond they shall be acquitted of on Certificate to the Tresur, signified vnder the hands of there selectmen; of there inhabitants acceptation of the aforesaid determination,

The Comities
FRANCES. NORTON
HUGH MASON
EDMOND GOODENOW
EDWARD CONVERS
JOSEPH HILLS
JONATHAN. DANFORTH
JAMES. PARKER

WILLIAM PARKE
ELIAZER LUSHER
ROGER CLAP

THOMAS T BROOKE
JOHN SMEDLY
JOSEPH HILLS
HUGH MASON

this is a trew Copy & me ROBERT MERIAM
this 19. Jen^r 1662." — Concord

Town Records.

Again the town was presented by the grand jury at the County Court at Cambridge, April 7, 1663, for the want of a pound, and for insufficiency of Concord North-Quarter Bridge; and, still again, on the sixth of October, for defect of the North-Quarter Bridge and of the North Bridge; but no record of further action upon the subject has been discovered.

With the establishment of the new government under the province charter the courts of sessions succeeded to the jurisdiction of the county courts in all matters relating to highways.

In March, 1698-9, a committee was appointed by the Court of Sessions to view, and consider of, a convenient highway from Concord to Groton, as a county highway. At the December term, following, "the jury's return" of a highway from Concord to Groton over the Great-River Bridge was allowed.

On the twentieth of December, 1706, the town was again presented "for having a bridge defective, called the North Bridge," also for a defect in the highway "that leads from Mr. Estabrook's to Sudbury." The selectmen being duly warned by the Court's precept, served by the town constable, Lieutenant French and Thomas Brown were appointed to answer to the presentment at the Court of Sessions held by adjournment January 14, 1706-7, when, the town representatives again appearing, "The Court order them to see that y^e sd Bridge and way be made and kept So as may be Safe for her Majties Subjects, and to make their Report to y^e next Court of Sessions to be holden at Concord."*

Finally, in 1707, at the June term, this presentment was disposed of as shown by the following entry:—

"The Select men of Concord appearing in Court by their Town Clerk Tho^s Browne, to Answ^r their p^rsentment for y^e Defects of y^e North Bridge, and a high way p^rented for Defect, Informing the Court, that the Bridge and high way is repaired well, The Court accept of their Report & Dismiss y^em they paying fees." — *Records of the Court of Sessions, in the office of the Clerk of the Courts for Middlesex County.*

Thus the principal bridges in Concord having been recognized as parts of public highways, and, during the hostilities with the French and Indian enemy, from about 1702, being much more used as a thoroughfare for the general public, — especially by the military forces going to and returning from the northern frontier, — than for the purposes of local travel, the inhabitants of Concord, in view of this increase of travel, deemed it equitable that the allowance formerly made in their behalf should be increased; they accordingly, by their selectmen, applied to the Legislature in the petition mentioned in the preamble to this chapter, as follows:—

* Records of the Court of Sessions, in the office of the Clerk of the Courts for Middlesex County.

"To His Excellency Joseph Dudley Esq^r Cap^t General and Governour in Chief in & over her Maj^{ty}'s Province of the Massachusetts-Bay and To the Hon^{ble} the Council and House of Representatives now in General Court assembled. In and for s^d Province August 13th 1707./—

The humble Petition of the select men of Concord in behalf of the Said Town Sheweth

That your Petitioners conceive their Town not only to be unhappily over done in the Province Tax for these five years last past successively, which many knowing men in the province cannot but perceive and believe. But also we do apprehend our Town to be extraordinarily overburthened for not so short a time as fifty Years, by reason of no less than three very costly Bridges, over great and peevish Rivers, the which notwithstanding they are all of great use both to the County and Country, neither could the Warr be carryed on without them being in the Roads to Lancaster and Groton; yet are all maintained at the charge of our poor Town, the charge being very great by reason of the high floods, and Ice, which very often shatters them, and sometimes carries them clear away in the spring of the Year. Our Predecessors formerly petitioned the General Court for Relief in this matter, which was pleased about the year 1660 to appoint a Committee to Examine their Case, and the Gentlemen who were Employed did accordingly attend that service, But (tho' wise men) could not foresee what necessity necessity* there would, thereafter be of s^d Bridges and made their Report, That Concord Bridges were set up for their own occasions, and were neither needful for Country nor County, and might be deserted at pleasure; as may be seen in their first particular in their Report whereas since, there hath been Country Roads laid over them, and our Town hath been presented to our County Courts of sessions for small defects the which hath Cost us both time and money, and we strictly ordered forthwith to repair what ever was defective. The Result of the aforementioned Committee was further returned relating to our Bridges that we should only be freed from charge to other Bridges in the County that were then Extant. but yet notwithstanding, there was many pounds required of us to pay towards the rebuilding of Cambridge Bridge some few years past, the which Bridge is but very little benefit to our Town./—

Your Petitioners therefore humbly prays this great & Gener^l assembly would please to afford them some Relief and mitigate their great Burthen compared with their Neighbouring Towns that have been eased, as Cambridge Mistick & Billerica who have had help. That all or some of s^d Bridges that they maintain may be maintained by the County, & that a Committee may be chosen and appointed & Impowered to examine our Cause and order some way whereby we may be eased or at least in part of what is required of your petitioners relating to the premisses.

And your Petitioners shall ever pray &c^a

By order of the Select men of the Town of Concord—

THOMAS BROWN Town Clerk."—*Mass.*

Archives, vol. 121, p. 125.

This petition appears to have been read in the House on the thirty-first of October. From the time the order which constitutes this chapter was reported, to the time of its passage, the proceedings in relation to it appear in the printed chapter.

The annual tax act had been passed on the thirteenth of June without any change made therein in favor of Concord; but in the apportionment of the province tax, the next year,† Concord was abated six pounds from the former rate, while in all the other towns in the county, except Groton, Dunstable and Dracont, the first two of which had suffered extraordinarily from the depredations of the Indians, the province tax either remained as in the previous act, or was increased. The loss of the House Journals for this year precludes absolute proof that this reapportionment was made on consideration of the report of the committee appointed by this chapter, but it is probable, and no reason appears for doubting that such was the case.

Chap. 53. This chapter is from council records, vol. VIII., p. 329, and archives, vol. 71, p. 420.

The principal incursions of the Indian enemy through the month of July, 1706, are described in the note to chapter 119 of the resolves of 1706-7. The next important raid in Massachusetts proper, after the attack at Reading on the sixth of that month, appears to have been at Groton, on Sunday, the twenty-first, when "3 Soldiers going to the place of Publick Worship, passing over a Fence through a Field of Corn, some of the Seulkling Indian Enemy being hid in the Field, shot at them, kill'd two and Captivated the third."‡

The next day, according to the News-Letter, "there was a Lad Moeving in a Field at Sudbury toward Sun-set, espied an Indian near to him, and he having a Pistol hanging at his Girdle, fired at the Indian whom he saw fall, the Lad made the best of his way home; the next morning Major Brown with a party of men went out in search of him and view'd the place, where they saw a considerable quantity of Blood on the ground, and 'tis supposed the Indian was mortally wounded, but that his Mates, as they usually do, carried him off."§

The sons of Henry Seager were two of the three unfortunate soldiers mentioned in the former of these accounts, and one of these sons was the Henry Seager redeemed and brought back by John Shelden, and by him supplied with food, raiment, etc., as men-

* *Sic.*

† Province Laws, 1708-9, chapter 6, § 1.

‡ Boston News-Letter, No. 119. July 22 to 29, 1706. "Several strokes were afterwards made on Chelmsford, Sudbury and Groton, where three soldiers as they were going to public worship, were way-laid by a small party, who killed two and made the other a prisoner."—*Penhallow's Indian Wars, p. 46.*

Rev. John Pike records this incident in his Journal, but states that the three soldiers "were returned to their Post from one Bloods house, who had invited y^m to Dinner."—See note to chapter 6, *ante*.

§ Boston News-Letter, *ut supra*.

tioned in his account in the note to chapter 38, *ante*, and in the resolve of June 7, 1710, and note.

The following is Seager's petition:—

"To his Excellency the Governour, And the Honorable Councill, & to the Representatives

The humble Petition of Henry Seager of Newtown

Sheweth

That y^r Petitioner had, The Summer before Last, Two Sons prest out in to y^e Countreys Service at Groton, And were whilst in the Service by The Providence of God, one of them Kill'd by the Enemy y^e other Taken Captive; So y^t They both of Them Lost Their Arms w^{ch} I Think were Justly valuable at five pounds, And four Powder horns, half a Pound of Powder, twenty bullets & a Snapsack,—

Y^r Petitioner therefore humbly prays That he may be Considered herein, out of the Country Treasure as shall be y^r Good Pleasure

And y^r Petitioner shall ever Pray &c

HENRY H SEAGER." — *Mass.*

Archives, vol. 71, p. 419.

The brief summary of this petition in the preamble to the resolve in the legislative journals of the council, and also that in the account of the province treasurer, both describe the petitioner as a soldier in her majesty's service taken prisoner by the Indians, and add that the allowance was made to him on that account. In the executive records of the council, also, Henry Seager (evidently meaning the petitioner) is the person who is alleged to have been taken captive and to have lost his arms. Fortunately the petition remains, furnishing data to correct this error and to justify the departure from the record made in the preamble to this resolve as here printed.

This petition was read in the Council November 4, 1707, and "recommended to the House." On the fourteenth it was read and the resolve thereon was passed by the representatives and sent to the Council, for concurrence. On the fifteenth it was concurred in, and consented to by the Governor.

The order in Council* for the payment of the allowance granted by this chapter was passed December 10, 1707, and the province treasurer's account† shows that it was paid.

For particulars relating to later hostilities, see the notes to chapters 27 and 49, *ante*, and 61 *post*; and concerning further proceedings on the western frontiers, see the note to chapter 23, *ante*.

Chap. 54. This chapter is from council records, vol. VIII., p. 329, and archives, vol. 71, p. 425.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dndley Esq^r Captain Generall & Governour in chief of Her Maj^{ties} Province of the Massachusetts Bay in New England, & to the Honourable the Council & Representatives in Generall Court Assembled.

The Petition of Hugh Pike.

Humbly Sheweth.

That your Petitioner voluntarily offered him self to Her Maj^{ties} Service, in the late Expedition to Nova Scotia wherein he Served, as an Ensigne under Maj^r Walton, & was unhappily wounded by the Enemy at Pessamaquoddy, being Shot in the thigh, & the upper part of the bone broken, & much shatter'd whereby your Petitioner's life was much endangered, & he has lain in a Sore, painfull, helpelesse Condition ever since & now far from Cure, Some Splinters of the bone being still to be taken out, and no hopes of ever being otherwise than a Creeples while he lives. Although your Petitioner must thankfully Acknowledge, that he has been carefully attended, by a Skillfull Chyrurgion, & well provided of what else was necessary for him by the Care of the Government hitherto. Your Petitioner has a Wife & five children to Take care of, & Provide for, which he is in no capacity to do any thing for; & the Small Estate he has, wasting & ruining for want of his Care & Management, And the Trade your Petitioner Exercis'd & Lived by was a House-Carpenter's, which his creepled Condition, (if ever he is cured) will Disable him any more to follow.

Your Petitioner therefore humbly & earnestly Pray's y^r Excellency, & Honours to Take his miserable Condition into your Compassionate Consideration, & of your wonted Justice and Commiseration, Allow, & Grant y^r miserable Petitioner Such Consideration for his Smart Paine, & towards his present Relief. And to Settle Such annual stipend on him during life, as in your wisdom Shall be thought fit.

And y^r Petitioner as in Duty bound Shall ever Pray.

Boston Nov^r 11: 1707.

Archives, vol. 71, p. 424.

HUGH PIKE." — *Mass.*

This petition was read in the House on the fourteenth and the resolve which constitutes this chapter was passed and sent to the Council, for concurrence. On the fifteenth it was read and concurred in, and consented to by the Governor.

The order in Council‡ for the payment of this allowance was passed December 5, 1707, and the province treasurer's account § shows that it was paid.

For an account of the skirmish in which Pike received his wound, see the note to chapter 27, p. 737, *ante*.

Chap. 55. This chapter is from council records, vol. VIII., p. 329, and archives, vol. 11, p. 233.

The petition mentioned in the preamble to this chapter is as follows:—

* Executive Records of the Council, vol. 4, p. 498.

† *Mass. Archives*, vol. 122, p. 311.

‡ Executive Records of the Council, vol. 4, p. 492.

§ *Mass. Archives*, vol. 123, p. 23.

"To the Right Honourable his Excellency the Governour Councell and Representatives in General Court assembled: this third of november *anno Dom* 1707

We the poore inhabitants of Brookfeild

Humbly shew

that whereas it has pleased this Honovred Court the few years past to grant to this poore place twenty pounds a year towards the maintainance of a minister amonge us and thereby we have been so far Inabled that we have had the gospel dispensed to us and still remaining under the same Indigent circumstances we are emboldned from those former experiences we have had of the bounty of this Honoured Court humbly to supplicate this Honoured Court further to extend thire charity to us and to afford us some help that we may still be enabled to maintain the worship of God among us that so we and our families in this place may be taught in the ways of truth and holiness and so youre poore petitioners as bound in duty shall ever pray

× HENRY GILBERT

JOSEPH RICE

ROBERT EMENS

SAMUEL OWEN

JOSEPH BANISTER

STEPHEN JENNINGS

EDWARD WALKER

SAMUEL DAVIS

BENJAMIN BARTLET

THOMAS PARSONS

THOMAS BARNES

PHILLIP GOSS

× THOMAS GILBERT

JOHN GROSVENOR

JOHN WHITE

in the behalf of the rest of the inhabitants of Brookfeild." — *Mass. Archives, vol. 11, p. 233.*

This petition was read in the Council on the seventh and sent to the House, where it was read on the fourteenth and the resolve thereon passed and sent back for concurrence. On the next day it was read and concurred in, and consented to by the Governor.

The following entry in the executive records of the council shows that Mr. Grosvenor had been chosen to preach at Brookfeild:—

"Nov. 10, 1708. Pursuant to a Resolve of the General Assembly at their Session held at Boston the 29th of October 1707. viz^t that the sum of twenty pounds be allowed and paid out of the publick Treasury towards the support of the Ministry in Brookfeild for the year currant beginning the seventh of November,

And Samuel Partridge Esq^r of the Committee for that Plantation, certifying, that Mr W^m Grosvenor attended and performed that work until August past, which the s^d Grosvenor saith was to the 25th day of that Month, being forty one weeks and one day of the s^d year.

Advised and Consented. That a Warrant be made out to the Treasurer to pay the sum of sixteen pounds, two shillings to the s^d Mr Grosvenor for his service afores^d accordingly." — *Vol. 4, p. 645.*

The province treasurer's account* shows that the above amount was paid.

See resolves, 1706-7, chapter 100.

Chap. 58. This chapter is from council records, vol. VIII., p. 331, and archives, vol. 71, p. 428.

The petition mentioned in the preamble to this chapter is as follows:—

"To his Excellency Joseph Dudley Esq^r Capt^l General and Governour in Chief in and over her Majesties Province of the Massachusetts Bay, and To the Hon^{ble} the Council and House of Representatives now in General Court assembled in and for s^d Province./—

The Petition of Richard Gridley of Boston Currier/

Humbly sheweth

That your Petitioner had a Commission to be Cap^l of a Company which he raised in Boston for the late Expedition, and being on Board Cap^l Gallop's Briganteen in the service, the Main sheet tript him up, and with the violence of the fall brake his Right arm short off a little above the Wrist, whereby he is utterly unable to follow his Trade, and for a considerable time yet, is like so to be, and he having a great family to maintain—

Humbly prays the favour of your Excellency & Honor^s to take the premisses into your pious Consideration and Grant him such Recompense as to your Excellency & Honor^s shall seem meet

And shall pray &c

RICHARD GRIDLEY." — *Mass.*

Archives, vol. 71, p. 428.

Upon this petition the resolve which constitutes this chapter was passed November 14, 1707, and sent to the Council, for concurrence, where it was immediately read and concurred in. On the eighteenth it was consented to by the Governor.

The order in Council † for the payment of this allowance was passed December 10, 1707, and the province treasurer's account ‡ shows that it was paid.

For an account of the expedition in which Gridley was accidentally wounded, see the note to chapter 27, *ante*. The bill of Doctor Boylston for professional services in this case is as follows:—

"Cap^l Gridly is Dr to Zab. Boylston Ulz/

To Medicine & Attendance in Curing a fracture in his Arme . . . £3, 10, 0

Boston Novm^r 5th 1707." — *Ibid., opposite p. 421.*

Another bill by Dr. Boylston, for medicine and attendance in the case of Captain Nathaniel Holmes, is endorsed, "Dr Boylston's Bills. for Cap^l Holmes and Gridley. 1707./." — *Ibid., p. 451.*

Chap. 61. This chapter is from council records, vol. VIII., p. 332, and archives, vol. 71, p. 421.

The contemporaneous papers given below, one being a letter to Governor Dudley and

* *Mass. Archives, vol. 122, p. 308.*

† *Executive Records of the Council, vol. 4, p. 408.*

‡ *Mass. Archives, vol. 123, p. 24.*

the other the News-Letter's report, contain the earliest narratives of the encounter in which Samuel Stevens received the wounds for which he was awarded compensation by the General Court in this chapter:—

“Lancaster August y^e 19 1707
about four of the Clock afternoon

May it Please your Excellency

Wee are Sorry that we have Such News to acquaint you with, in yt in our Pursuit & engagement with y^e enemy we lost 2 men of Marlborough besides wilder which was taken which is Killed; one of Lancaster and one of Marlborough is wounded: we overtook them about 8 or 9 mile wide of Lancaster this day about 9 a Clock this day where we fought them about 2 hours the enemy having a great advantage of us when we Come up with them: there being about thirty of the as we Suppose, at Length we wholly routed them and took all their Packs and provision & have Slain Severall of them without any doubt but we had not Time to find them. we have Sent about thirty men to waylay them or head them if they Can. being in great hast we Subscribe your Excell^ys Most Humble Serv^ts

Praying your further direct^s

THO: HOW
JOSIAH COVERSE.” — *Mass.*

Archives, vol. 51, p. 174.

“Boston, On Monday last the 16th Currant, Thirteen Indians on the Frontiers, surprized two men at their Labour in the Meadows at *Marlborough*, about 4 miles distant from the Body of the Town, took them both alive; and as they parted out of the Town, took a Woman also in their marching off, whom they kill'd: *How* one of the Prisoners broke away in a Scuffle, and brought home the Indians Gun and Hatchet, and acquainted the Garrison and Inhabitants, who speedily followed them, and were joined by 20 from *Lancaster*, being in all 40 odd came up with the Enemy, who were also increased to 36, and on *Tuesday* at ten of the Clock found them, and in two hours exchanged ten Shot a man, in which Skirmish we lost two men, and had two slightly wounded; and no doubt we kill'd several of the Enemy, whose Tracts of being dragg'd away we saw, but recover'd but one of them, tho' tis probably conjectur'd, that we kill'd 10 or 12 at least; we took 24 of their Packs, and drove them off their ground, and are yet pursued by two Parties of the Forces from *Lancaster* and *Grafton*, at our Forces overtaking and attacking the Enemy, they barbarously murdered the Captive.” — *No. 175. August 18 to 25, 1707.*

For further particulars relating to the attack and pursuit of the Indians on this occasion see the note to chapter 22 of the resolves of 1708-9.

The following is the petition mentioned in the preamble to this chapter:—

“Marlborough Nov^r 10th 1707

To his Excellency, Joseph Dudley Esq^r Govern^r & to y^e Hon^d Council & to y^e Honorable Jentlemen of y^e house of Representatives Greeting

The Humble Petition of Samuel Stevens of Marlborough

humbly sheweth

that he being upon that Expedition after ye Enemy last August & fought y^e Enemy About Lancaster, where y^e sd Stevens was sorely wounded, his hands being both shot by ye Enemy & lost many Joynts which has Greatly disinabl'd him as to his caling being a Joyner for time p^{re}sent & future y^e Petition^r has been ever since & is still under y^e hand of y^e chirurgeon wch he humbly prays may be discharged, also prays that you will Vouchsaf sum Allowance to y^e poor petition^r as in Refreance to ye Great damage he hath sustayn'd wch shall greatly oblige y^e humble serv^t to farther service & obedience

SAMUEL STEVENS.” — *Mass.*

Archives, vol. 71, p. 421.

With this petition Stevens filed the following physician's bill and certificate:—

“Concord Nov^r y^e 18th 1707:

An account of what is Due to me y^e subscriber for journeys & the care of sundry wovnds which hapned to Sam^l Stevens of Malbrough in a late engagement with y^e Indian Enmy at or near Lankaster as also dyet & tendance: viz:—

To three journeys to Lankaster	2 - 14 - 0
To Med ^{ns} & dressing while at Lankaster & after he came down untill now	6 - 10 - 0
for :13: weeks dyet & washing & lodgings at 3 shill ⁶ 4 ^d p ^r week	2 - 03 - 6

JONATHAN PRESCOTT, ju^r Chir^g. — *Ibid.*,

p. 422.

“Wee whose Names ar Subscribed: being wth y^e P^{ty} of souldiers y^t were Engaged wth ye enemie Indians about Lancaster the 19th day of August 1707 doe hereby Signifie y^e Samuell Steevens was one y^t was voluntier in y^t Engagem^t agst s^d Enemy & there the s^d Steevens received Severall wovnds by wch he hath been disabbed from attending his Call^{ing}: & is yet vnable to use his hands in Labour for getting his liuelyhood: nor likely Euer to use his hands to procure his future mentainance & support as formerly

THOMAS HOW
SAMUEL MORRIS.” — *Ibid.*,

p. 423.

This petition was read in the House on the nineteenth. On the twentieth it was read again and the resolve which constitutes this chapter was passed thereon and sent to the Council, for concurrence, where it was immediately concurred in, and consented to by the Governor.

The order in Council* for the payment of the twenty pounds allowed by this chapter was passed December 10, 1707, and the province treasurer's account† shows that it was paid.

The province treasurer's accounts, as far as they are preserved, show that Stevens's pension was paid annually to 1733, inclusive. After the latter year no separate entry was

* Executive Records of the Council, vol. 4, p. 498.

† *Mass. Archives*, vol. 123, p. 29.

made of the names of pensioners.—Mass. Archives, vol. 122, pp. 307, 330, 365, 395 and 425; and vol. 123, pp. 47, 82, 116, 143, 177, 207, 249, 303, 339, 357, 386, 410, 430 and 472.

According to Hudson (History of Marlborough, p. 447), Stevens was born in 1681, and died December 6, 1761 (p. 448). He married, March 29, 1710, Thankful Stow of Marlborough.

Chap. 62. This chapter is from council records, vol. VIII., p. 333, and archives, vol. 58, p. 261.

The following is the account mentioned in the preamble to this chapter:—

"1706	Province of the Massachusetts Bay to B: Eliot is Dr	
	To 3 Rm paper of Mr Adams for ye Election sermon	£1: 19: 0
Aug ^t 22	To 2 q ^r paper for ye Committee	0: 2: 8
Octo ^r 4	To 1 q ^r Demy	0: 4: 0
	To 130 August sessions	2: 3: 4
	To 130 Octo ^r sessions	1: 1: 8
	To 130 March sessions	1: 1: 8
Jan ^y 30	To 1 q ^r Demy	0: 4: 0
May 15	To 1 q ^r D ^e	0: 4: 0
1707		
June 19 th	To 130 May Sessions	1: 1: 8
Aug ^t 20	To 130 Aug ^t sessions	1: 1: 8
Sep ^t 8	To 1 q ^r Demy	0: 4: 0
		£9: 7: 8

Boston Nov^r 14th 1707
—Mass. Archives, vol. 58, p. 261.

Errors Excepted P BENJA^y ELIOT."

This account was read in the House on the twenty-first, when the resolve which constitutes this chapter was passed and sent to the Council, for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

The order in Council* for the payment of the allowance was passed December 10, 1707, and the province treasurer's account† shows that it was paid.

Chap. 64. This chapter is from council records, vol. VIII., p. 334. It has not been found in the archives.

The proclamation mentioned in this chapter was as follows:—

"By His Excellency, JOSEPH DUDLEY Esqr. Captain General and Governour in Chief, in and over the Provinces of the Massachusetts-Bay, and New-Hampshire, in New-England. A PROCLAMATION for a General THANKSGIVING.

UPON Consideration of the many Instances of Divine Benignity in the Present Year, which Demand Publick Acknowledgments of most Hearty Gratitude; especially, The Continuation of the Life of Her Sacred Majesty the QUEEN; The Happy UNION of Her British Kingdoms, and the Successes of Her Just Arms; The Protection Vouchsafed the People of these Provinces, in divers Articles of the present War; and the Smiles of Heaven on the Work of their Hands; The Plentiful Harvest; The Lengthening out of our Civil and Religious Liberties; with many other Undeserved Mercies not to be Enumerated.

I have thought fit, with the Advice of Her Majesties Council, and at the Desire of the Representatives in their present Session, to Appoint Thursday the Eleventh of December next, to be Celebrated as a Day of Publick THANKSGIVING throughout these Provinces, forbidding all Servile Labour thereupon: And Exhorting both Ministers and People in their several Assemblies to Offer up Sincere and Affectionate Praises to Almighty GOD.

Given under my Hand at Boston the Twenty-fourth Day of November, 1707. In the Sixth Year of the Reign of Our Sovereign Lady QUEEN ANNE

By Order of His Excellency and Council.

J. DUDLEY.

Isaac Addington, Secr.

GOD Save the QUEEN." — Boston News-Letter, No. 189.

Sewall entered the following memorandum against this day:—

"Feria quinta, Dec^r 11th 1707. Thanks-giving-day, very serene, moderate, comfortable Wether. Mr. Pemberton preaches forenoon and afternoon." — Diary, vol. II., p. 206.

Chap. 66. This chapter is from council records, vol. VIII., p. 335, and archives, vol. 9, p. 157.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esq^r Cap^t General & Governour In Chief and To the Hon^{ble} the Council & House of Representatives of the Province of the Massachusetts Bay now in General Court assembled June 12th 1707—

The Petition of David Jeffries of Boston Merch^t

Humbly Sheweth.

That your Petitioner had a negro woman named Bilhah and four Small children one that sucked at her Breast consigned to him in the sloop Rebecca John Pitts Mar from Jamaica who arrived here in October last, and your Petitioner was forced to pay four pounds a head for their Importation which your petitioner thinks very hard in regard some the s^d Children were not worth the Money and therefore

Yor Petitioner humbly prays the favour of this great & General Assembly that so much thereof may be remitted him as shall seem Equitable & reasonable

And yor Petitioner shall pray &c.

DAVID JEFFRIES." — Mass.

Archives, vol. 9, p. 157.

* Executive Records of the Council, vol. 4, p. 498.

† Mass. Archives, vol. 123, p. 25.

This petition was presented at the first session. It was read in the House on the thirteenth and "referred to next session." The next action upon it that has been found was on the eleventh of November, when it was read again in the House and referred to a committee. On the fifteenth the order which constitutes this chapter was passed, probably as reported by the committee, and sent to the Council, for concurrence. On the twenty-fifth it was read and concurred in, and consented to by the Governor.

Chap. 67. This chapter is from archives, vol. 71, p. 407. It is recorded in council records, vol. VIII., p. 335.

The following is the petition upon which the resolve which constitutes this chapter was founded : —

"To his Excellency Joseph Dudley Esq^r Cap^ln Gen^l and Commander in Chiefe of the province of the massachusetts Bay in Newengland & and * to the Hon^{ble} the Council and to house of the Represetitives in Generall Court Assembled vpon Wednesday the 29th of october 1707 the petition of John Coleburn :

humbley Sheweth

that your Petitioner was Imprint in to her Mats Service sum time in the year 1704 and being in her Mats service vnder the Command of Capt John Lane being poasted at york : your petitioner Received a greivous Wound in his brest by a shott in his brest his Life being very mutch in Danger and being altogether vnable to do any thing for his Relief : for the space of two years and after his m^s Decease he being of Age for him self your petitioner Being vnder the hand of the Chyrurgon still for Cure : being put to the Charge of many pounds for his healing and now being Destitute of either flather or m^r to do any thing for your petitionours Relief and he being Poore and not haning any thing to defray the Charge Begg that your Honours Would Consider the Condition of your Petitionour and afford him sum Relief for the Defraying of the Charge since he hath bin for him self Remaining vnder the hand of the Docteris for the space of eight months before he Received his Cure for which the Doctris Demands five pounds and your petitionour Continuing vnder sore smart and paine for The space of two years by Reason of his Wound if your Honours will be pleased to afford Reliefe for eight months Diete and to pay the Doctris and sum thing for the Smart that your petitionour hath vndergon as your Honours in Wisdom shall see Cause

And your petitionour Shall Ener Pray.

Concord October the 27th 1707.

JOHN COLBORN." — *Mass. Archives, vol. 71, p. 407.*

This petition was read in the House on the eighteenth of November. It was probably referred to a committee, since on the twenty-fifth it was read again and the resolve thereon was passed and sent to the Council, for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

The order in Council† for the payment of the allowance granted by this chapter was passed December 10, 1707, and the province treasurer's account‡ shows that it was paid.

Chap. 69. This chapter is from council records, vol. VIII., p. 336, and archives, vol. 71, p. 378.

The following is the petition mentioned in the preamble to this chapter : —

"To His Excellency Joseph Dudley Esq^r Captain Generall & Governour In Chiefe & c^{tra} the Hon^{ble} Council & Representatives of her Majeties Province of the Massachusetts Bay In New England Convened in Generall Assembly the thirteenth Day of August 1707 The Petition of Joseph Wilder of Lancaster

Humbly Sheweth

That your Petitioner In y^e yeare 1703 being ordered by Cap^t Benjamin Willard to Provide twenty paire of good Snow shoose for y^e use of his Souldiers which Accordingly was Nineteen paire of them provided, foure of which Coll Jonathan Tyng Sent for & had them for y^e expedition to Wenepissiockett ; the other were Delivered by Said Cap^t Willards order to his men & used by them In Scouting about y^e fronteeers your Petitioner Disburst Considerable of his owne money towards the procuring of them to y^e persons that made them & is threatened to be Sued for y^e Remainder, & In case he should must unavoidably pay it, which will be apparrant wrong. your Petitioner expected that Coll Tyng would have Taken Care they Should Long eare now have been paid for. but hitherto Never Received one peny If Coll Tyng ever Received any pay for y^e foure paire first delivered yet Nothing hath been allowed to them that made them. but what yon^r Petitioner disbursed as above-said which is greatly to theire wrong & Damage & if not in a Short time Remedied Will proove a Greivance —

Your Petitioner therefore Humbly Prayes that your Excellency & Hon^{rs} would consider y^e Premissess & order that your Petitioner may be paid out of the Publique Tresury what is Justly Due for said Snow Shoosse, which at five Shillings a paire as was then allowed amounts to y^e Sum of foure pounds fiftene shillings that so y^e persons Concerned may be paid without farther Trouble or delay And your Petitioner as In Duty Bound Shall ever Pray & c^{tra} —

JOSEPH WILDER." — *Mass.*

Archives, vol. 71, p. 378.

This petition was presented at the second session but nothing appears to have been done upon it until the fourth of November, when it was read in the House and referred to a committee. Probably to remove an objection raised by this committee the petitioner filed, on the twenty-fourth, the following order from Captain Willard, with the Governor's certificate annexed : —

"Lancaster: 7th descem 1703

To Sarjent Joseph wilder you are here by ordred by nerty of an order to me : from his Exelly to teake care of y^e Solders now under my comand in Lancaster and upon eny amur-

* *Sic.*

† Executive Records of the Council, vol. 4, p. 498.

‡ *Mass. Archives, vol. 123, p. 29.*

jences that eny towne be defea'd by ye Enemy you murst command all under my command in grotton and persew after them according to your best understanding and keepe our Solders in good order tel further order from me or other of your sewpearior ofesers your friend

BEN^{JA} WILLARD capt
and further you are here by ordred to provide forth with twenty pair of good snow shoes
fall not your friend

BEN^{JA} WILLARD Capt
Roxbury. 24. Novr. 1707.

This above order was presented to mee this day, and I do allow it, to be in persnance of my order to Captain willard at the time.

J DUDLEY."—*Ibid.*,
p. 379.

On the twenty-fifth the petition was again read in the House, as also the accompanying papers, and the resolve which constitutes this chapter, probably as reported by the committee, was passed and sent to the Council, for concurrence. On the next day it was read and concurred in, and consented to by the Governor.

The order in Council* for the payment of this allowance was passed December 10, 1707, and the province treasurer's account† shows that it was paid.

Chap. 71. This chapter is from council records, vol. VIII., p. 337. It has not been found in the archives.

In the note to chapter 49, *ante*, it appears that as early as the twenty-fourth of September the Province Galley had been ordered to "cruise along the north shore, and to visit all the harbors from Saco to Casco Bay and further east to intercept the enemy in their drawing off and return;" and in the following letter of the twenty-ninth to Colonel Hilton, Dudley states that she had "gone to Casco with a reinforcement:"—

"Boston, 29 Sept. 1707.

DEAR COUSIN:—By the post I have letters from Mr. Penhallow, Capt. Heath and others,‡ acquainting me of the number and certainty of the approach of the enemy, which I had not when I wrote last. I know not how far you have proceeded upon my last orders, in dismissing the troops. I hope you have not yet sent so many of them away as to leave the Province in distress.

I thank you for your early march with the Piscatay foot. I desire you, with them and what detachment you think proper of the standing forces and inhabitants, to use all possible means to discover the enemy, their rendezvous and canoes. Southack is gone to Casco with a reinforcement, and Col. March with a sloop and men to Saco, for fear of mischief there. If you think they be drawn off you may continue to send away so many of the troops as are not useful, and keep the others. This is your order for it and do not march off your post until you be certain of their removal. I leave the whole matter to your disposal and am,

Sir, your affectionate uncle,

J. DUDLEY.

In her Majesty's service,
To Col. Winthrop Hilton. Wells."—*History of the Dudley Family, by Dean Dudley*,
p. 194.

Dudley's statement might be supposed to refer to the cruise mentioned in the note to chapter 49 but for the report in the News-Letter of the sixth of October, that the "Deftford and Province Galley are returned from their cruise, and immediately ordered out again." From this it may be inferred that she returned from the first cruise and was again sent out. Nothing further has been discovered to show the date of her second return.

Chap. 72. This chapter is from archives, vol. 71, p. 292. It is recorded in council records, vol. VIII., p. 337.

The petition upon which the resolve which constitutes this chapter was founded is as follows:—

"To his Excellency Joseph Dudley Esq; Capl Generall & Comander in chiefe in & over her Majty Province of the Massachusetts Bay in New England, & to ye Honourable Council & Representatives, now Convened in Generall Assembly in Boston

The Petition of W^m Sutton of ye sd Boston Joyner

Most Humbly Sheweth—

That y^r petitioner was a Souldier in the Expedition‡ to Canada, & while he was there in y^e Country's Service received a Wound in his right Arm, whereby he was disenabled for above a yeare & halfe after his return home from doeing y^e least stroke of worke at his trade, & ever since has had such a weakness accompanied for y^e most part wth paine therein, y^t he has not ben a well man, or capable of working att his trade as heertofore but for these eight or nine months last past has ben again wholly disenabled from doeing any thinge att his trade, or any other worke whereby to gett a penny for his Subsistance, through his inability to use his said Arm, which has brought him exceeding low in his health as well as otherwise, in which said condition y^r Petitioner does still continue wth little prospect of recovery. furthermore y^t y^r Petitioner though advised thereto soon after his Returne yett could not be perswaded to trouble y^e Hon^{ble} Generall Coun wth his Petitioning y^m for any consideration to be granted him, nor would he now have done itt, but for his extreame Want, & necessity—

Your poor Petitioner therefore most humbly prays y^e will be gratically pleased to take his said Service & the helpes condition he is brought into thereby, into your favourable

* Executive Records of the Council, vol. 4, p. 498.

† Mass. Archives, vol. 123, p. 29.

‡ In 1690, under Sir William Phips.

§ See these letters in the note to chapter 49, *ante*.

consideration, & according to the Laudable practice, both in this & other places in ye like cases to allow your Petitioner Such a pension out of ye publick treasury during his necessity, & incapacity as aforesaid, as to your great Wisdom & Charity shall seem meet, whereby your Petitioner, & his Family may be somewhat relieved vnder their miserable distressed condition, & circumstances

And yr poor Petitioner shall as in Duty bound for ever pray &c

Boston. 20th March. 1706/7.

WM SUTTON." — *Mass.*

Archives, vol. 71, p. 291.

To support his petition Sutton filed the following certificate:—

"Theas may certify all Whome It may concern y^t Henry Hill & peter Townsend who belonged too y^e ship John & Thomas* Capt Thomas Carter commander one. an Expedition too canada testifieth & saith y^t Mr Willyam Sutton who belonged too s^d shipe & when Engaged against y^e Ennemi recened a wound In his write arm as witnes oure Hands this 3th of June 1707

HENRY HILL

PETER TOWNSEND." — *Ibid.*,

p. 293.

This petition was presented at the first session this year. It was read in the House on the third of June, and on the fifth the resolve thereon was passed and sent to the Council, for concurrence. The Council having taken no action upon the resolve it was brought forward in the House during the third session. On the twenty-fifth of November the papers were read, and it was "ordered that the above-written vote be revived and sent up for concurrence." On the twenty-sixth it was read and concurred in, and consented to by the Governor.

By the treasurer's accounts (except for the years 1712 and 1714 which are missing), Sutton appears to have been regularly paid his pension to and including the year 1719. — *Mass. Archives*, vol. 122, pp. 307, 330, 365, 395 and 425, and vol. 123, pp. 47, 82, 116, 143 and 177.

Chap. 73. This chapter is from council records, vol. VIII., p. 337, and archives, vol. 71, p. 442.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudley Esq^r Captain General, & Governour in chief of her Majties Province of the Massachusetts Bay &c^a and to the Hon^{ble} the Council, & Representatives, in General Court Assembled.

The Petition of Thomas Phillips of Boston,

Humbly sheweth.

That upon Advice, from the forces at Port Royall the last summer, That a further Inforcement was wanted there, His Excellency was pleased, to Commissionate Capt: Ephraim Savage, to Raise, & Command a Company, and yr Petitioner voluntarily offered himself to her Majesties service, under his Command, where he served as a serjeant, And in a skirmish with the Enemy at Port-Royall, was unhappily shot in the Legs, & had the bones of both of them broken whereby your Petitioner, has suffered much & exquisite Paine, & has been brought, to the Gates of Death. & ever since his Return home, has Provided for himself Lodging, subsistence, & some necessaries for his Dresses. Yet thankfully Acknowledge's, that through the good care of the Government, he has hitherto, been carefully attended by a skillfull Chyrurgion,† but still remain's a helpless creeple far from Cure, and has a Wife & six children to maintain, The Occupation yr Petitioner Exercised, was a Blacksmith's, which he has little hopes ever to be in a capacity, to follow again, and has no other, to help him self by.

Your Petitioner therefore humbly & earnestly Pray's Yr Excellency, & this Honorable Court to Consider the Premises, and Extend your Compassion to him, And Grant such Allowance towards the present Relief of himself & family, for smart-money, & annual Pension during life, as in yr wisdom shall seem meet, and as his distressed Circumstances call for.

And Your Petitioner as in Duty bound shall ever Pray.

Boston Nov^r 21th 1707.

THOMAS PHILLIPS." — *Mass.*

Archives, vol. 71, p. 441.

This petition was read in the House on the twenty-fifth, and on the next day the resolve which constitutes this chapter was passed and sent to the Council, for concurrence. On the same day it was read and concurred in, and consented to by the Governor.

The order in Council ‡ for the payment of the allowance of twenty pounds was passed December 10, 1707, and the province treasurer's account § shows that it was paid.

For an account of the skirmish in which Phillips received his wound, see the note to chapter 27, *ante*. He went out in one of the two companies that accompanied the commissioners, Hutchinson, Townsend, and Leverett, when they proceeded to Casco Bay, in the Ruth Frigate; and he served in the last disastrous attempt to conquer Acadia. Although he claims to have acted as a sergeant in Captain Savage's company on the expedition to Port Royal, that title is not given to him in the public records. His pension was discontinued by chapter 20 of the resolves of 1708-9, and revived by a resolve of the next year. See, further, the notes to those resolves. He was also paid for the loss of a gun.¶

* "Sir William dividing the fleet into several squadrons, whereof there was the *Six Friends*, Captain Gregory Sugars commander, with eleven more of the admiral's squadron, of which one was also a capital ship, namely, *The John and Thomas*, Captain Thomas Carter commander." — *Mather's Magnalia*, vol. 1, book II., p. 168.

† Phillips is mentioned as among those wounded at Port Royal whom Robert Ellis attended. — *Mass. Archives*, vol. 122, p. 313.

‡ Executive Records of the Council, vol. 4, p. 498.

§ *Mass. Archives*, vol. 123, p. 24.

¶ *Ibid.*, vol. 122, p. 311.

Chap. 74. This chapter is from archives, vol. 71, p. 443. It is recorded in council records, vol. VIII., p. 336.

As stated in the note to chapter 27, *ante*, the resolve authorizing the enlistment of soldiers for the expedition against Port Royal virtually established ten weeks as the limit of service by providing subsistence for that period only. The inference thus reasonably drawn, that the time required for the consumption of the supplies originally granted was the measure of the continuance of service, was confirmed by Dudley's official communications; for instance, his letter* of the twenty-fourth of March to the Governor of Connecticut, and his circular letter† to the colonels of the Massachusetts militia, in which was enclosed a copy of the resolve.

Although the final grand parade at Hull was originally intended to take place about the middle of April, and was not actually held until a few days later, many of the men had been mustered in, several days earlier; and it was not, therefore, unreasonable to suppose that they were to be disbanded, or at least granted the election of an honorable discharge, by the last of June. It was therefore not only politic but just for the Legislature to manifest an intention to deal fairly with soldiers who, with no little risk and no slight interruption of their vocations, had responded to the Governor's call to arms, by vindicating their motives as was done in the preamble to this chapter, and not to resolve absolutely to withhold pay from any except those who never returned after deserting. Even this exception seems hardly fair, in view of all the circumstances.

The long term of service to which those were held who were retaken by force after desertion may have been suggested by the recommendation which Captain Tuthill of Castle William made to the Legislature in a paper dated October 29, 1707, to the effect that, in future, the term of all enlistments be extended.†

Chap. 75. This chapter is from council records, vol. VIII., p. 338.

Although the resolve has not been found in the archives in the form in which it appears in the record, the following is the original paper, doubtless, from which the Secretary compiled his record entry:—

“In the House of Representatives Novr 21: 1707

Resolved [here follows the resolve, chapter 81, *post*, to which is appended the memorandum below]

The Present standing Commissioners being

James Russell	} Esqrs
Elisha Hutchinson	
Nathan ^l Byfield	
John Leverett	
& Col ^l Sam ^l Checkley.—	

Novr 28^o 1707. In Council —

Read and Concurr'd, wth the Addition of the Names of the Commissioners.

IS^a ADDINGTON Secry.

Novr 28: the Addition Agreed .

J DUDLEY.—*Mass.*

Archives, vol. 101, p. 343.

Captain Legg, whose illness Sewall mentions in his diary‡ under date of December 3, 1706,—where he records a visit to him in company with Penn Townsend,—did not die until the seventh of January. He was buried on the tenth.§ On the fifteenth of December, 1707, the *News-Letter*|| published the names of the committee as newly constituted by the substitution of the name of Colonel Checkley for that of Captain Legg.

Chap. 76. This chapter is from council records, vol. VIII., p. 338.

The original of the resolve which constitutes this chapter is not in the state archives. By the courtesy of Grenville H. Norcross, Esquire, in whose private collection it is, an exact copy of it is given below:—

“In the House of Representatives Novr 27: 1707.

Resolved—That the sum of Three Pounds, three shillings, & sixpence be Allowed, & Paid out of the publick Treasury to William Beale, in full for ferryage done for the Province to this day.

Sent up for Concurrence.

JOHN BURRILL Speaker

Read & Consented to by the Council

JA: RUSSELL P^rord^r

Boston ye 27th Novembr 1707.”

The order in Council¶ for the payment of this allowance was passed December 10, 1707, and the province treasurer's account** shows that it was paid.

Chap. 77. This chapter is from council records, vol. VIII., p. 338. It has not been found in the archives.

* Note to chapter 142 of the resolves of 1706-7, p. 683, *ante*.

† *Mass. Archives*, vol. 71, p. 412.

‡ Vol. 11., p. 172.

§ “*Boston*, On Fryday the 10th Currant was Interr'd here Samuel Legg Esqr. of Her Majesty's Council for this Province, who Dyed on Tuesday the 7th Instant.”—*Boston News-Letter*, No. 143. January 6 to 13, 1706-7.

|| *Feria Secta*, Jan^y 10th [1706-7.] Capt. Legg buried, Bearers, Gov^r, Mr. Winthrop; Mr. Cooke, Addington; Col. Byfield, Capt. Belchar. Councillors had Gloves, and many others.”—*Sewall's Diary*, vol. 11., p. 177.

¶ “THE present standing Committee for Signing the Bills of Credit, are James Russell, Elisha Hutchinson, Nathaniel Byfield and John Leverett Esqurs. and Col. Samuel Checkley, or any three of them.”—No. 191.

** Executive Records of the Council, vol. 4, p. 498.

* *Mass. Archives*, vol. 122, p. 310.

The following entry in the executive records of the council probably relates to companions of the soldiers named in this chapter:—

"Sept. 8, 1707. His Excellency having Information of a Mutiny among the Recruits for Casco Fort, on Board of Carrs Sloop,* a Transport Vessel, and that six or more of the principal of them were landed at Gloucester, and put under Guards.

Ordered Captⁿ Dyer with ten of his Troop of the Guards to repair thither, and safely to bring them to Boston in order to their Tryal."—*Vol. 4, p. 463.*

The entry of the order on the account rendered by Captain Giles Dyer (who was sheriff of Suffolk County) of the expenses of his journey is dated the eighteenth of September. The account, amounting to £ 7 10s. 4d., was allowed,† and ordered to be paid by the Commissary-General. The number of soldiers apprehended by Dyer, and brought to Boston to be tried for mutiny, is given as seven; but it is probable that this did not include the sick and lame soldiers cared for by Sawyer, and for whose cure John Newman received an allowance under chapter 80, *post*.

See the note to chapter 74, *ante*.

The order in Council‡ for the payment of the allowance granted by this chapter was passed December 10, 1707, but the amount actually charged in the account of the province treasurer§ as paid by him under this chapter and chapter 80, *post*, is sixpence less than the sum of the two allowances.

Chap. 78. This chapter is from council records, vol. VIII., p. 338. It has not been found in the archives.

This ferry, granted to John March, was between Newbury and Salisbury, over the Merimac below Carr's ferry.

The order in Council|| for the payment of the allowance granted by this chapter was passed December 10, 1707.

The allowances granted by this chapter and by chapters 79 and 92, *post*, were paid by the province treasurer¶ in one sum. The amount paid, however, seems to have been eightpence less than the grant.

See resolves, 1706-7, chapter 98, and note.

Chap. 79. This chapter is from council records, vol. VIII., p. 338. It has not been found in the archives.

The order in Council|| for the payment of the allowance granted by this chapter was passed December 10, 1707.

For the payment by the province treasurer see note to chapter 78, *ante*.

Chap. 80. This chapter is from council records, vol. VIII., p. 338. It has not been found in the archives.

The order in Council|| for the payment of the allowance granted by this chapter was passed December 10, 1707.

For the payment by the province treasurer see note to chapter 77, *ante*.

Chap. 81. This chapter is from council records, vol. VIII., p. 339. It is preserved in archives, vol. 101, p. 343.

The record of payment of the committee for their expenses and services in preparing the bills printed under this chapter is given in the note to chapter 146 of the resolves of 1706-7.

The following is the charge which the province treasurer made against himself for the face value of the bills received by him under this chapter:—

"The said Accomptant chargeth himselfe with what Province Bills of

Publick Credit was received Of the Committee appointed by the

General Court for a present Supply of the Treasury by virtue of

An Act of the General Assembly at y^e session in Octobr 1707. . . 10000 " - " -."

—*Mass. Archives, vol. 123, p. 7.*

Chap. 83. This chapter is from council records, vol. VIII., p. 340, and archives, vol. 71, p. 440.

The following is the petition mentioned in the preamble to this chapter:—

"To his E^xcy Joseph Dudley Esqr Captⁿ Gen^l & Govern^r in chief in and over her Mat^e Province of the Massachusetts Bay in New England in Council, and to the hon^{ble} hous of Representatives in Generall Court conven^d.

The Petition of Sam^l Lillie of Boston Merch^t.

humbly Sheweth

That in the year 1697 when there was some Expectation that the french would have invaded this Province five great Guns belonging to your Pet^r and Compy & weighing as in the margent were impressed by order of y^e then Lievt Gov^r for the Inforcem^t of her Mat^e Castle on Castle Island, and four of y^m have ever since remained there, w^{ch} Guns were at that tyme really worth & could have been sold for 25^e p hundred w^{ch} amounts to 90^e 12^e 6^d; and whereas the s^d Guns by reason of tyme & vsage, could they now be found or come at, would be of little or no vse to your Pet^r

Yor s^d Pet^r therefore prays this hon^{ble} Court to order payment to be made to your pet^r

C q B
19:1:10
19:1:11
16:3:6
17 - 1

72:2:0
16 1. Sreturn'd

* The Richard and Sarah, Richard Carr of Salisbury, master.

† Executive Records of the Council, vol. 4, p. 464.

‡ *Ibid.*, p. 498.

§ *Mass. Archives*, vol. 123, p. 29.

|| Executive Records of the Council, vol. 4, p. 499.

¶ *Mass. Archives*, vol. 123, p. 25.

of the afores^d sume of 90^l 12. 6^d wch the s^d Guns were in value, and might have been sold for when Impress'd.

And your Petr^r as in duty bound shall pray &c^a.

SAMUEL LILLIE."—*Mass.*

Archives, vol. 71, p. 439.

This petition was read in the House November 20, 1707, and probably referred to a committee, since it would seem that a defect in the petition called for the further certificate appended thereto, giving the names and respective interests of the owners, as follows:—

"The Guns above mentioned are owned in quarter parts.

by { John Appleton Esq^r
Samuel Lilly.
Joanna Bulkley &
John Ruck the subscriber.

JOHN RUCK."—*Ibid.*

Upon the filing of this declaration or certificate it would seem that the committee on the twenty-sixth reported the resolve which constitutes this chapter and which was forthwith passed and sent to the Council, for concurrence. On the twenty-eighth it was read and concurred in, and consented to by the Governor.

The order in Council * for the payment of this allowance was passed December 10, 1707, and the province treasurer's account † shows that it was paid.

Chap. 84. This chapter is from council records, vol. VIII., p. 340. The original has not been found in the archives, although an attested copy is preserved in vol. 11, p. 281.

Benjamin Woodbridge mentioned in this chapter was nephew of the famous Puritan divine of the same name, who, having matriculated at St. Mary Magdalen Hall, Oxford, in 1638, was brought to New England by his elder brother John and was one of the first class of graduates of Harvard College.

John Woodbridge, the father of Benjamin the younger, became the first minister of Andover, Massachusetts, and had a checkered career as preacher, schoolmaster, deputy to the General Court, and magistrate, here, and as commissioner of the revolutionary parliament, and school teacher, in England. Benjamin's mother was Mercy, daughter of Governor Thomas Dudley, and among his kinsmen on his father's side were the learned ministers, Parker and Noyes of Newbury. Although thus related to persons of education and of the highest distinction in the colony he does not appear to have been educated at a college. His writings, however, indicate that he had some knowledge of Latin and that his skill in his vernacular was not inferior to that of the most renowned scholars of New England. He became a preacher, in which vocation he had the singular misfortune of getting into trouble in every community in which he attempted to officiate; and this misfortune was enhanced by the fact that wherever he thus fell into trouble his quarrel was with the majority, and that the authorities called to pass upon his contentions did not exonerate him from blame.

Benjamin's first appearance as a public preacher was at Windsor, Connecticut, when he was about twenty-two years of age. The inhabitants of the town being divided in the choice of a colleague for, or successor to, the venerable Mr. Warham, pastor of the first, and at that time the only, congregation gathered there, the general court at Hartford, by their order of October 10, 1667, required the freemen and householders of Windsor and of the plantation of Massacoe to assemble in town meeting at Windsor and vote for or against the choice of Mr. Nathaniel Channey, who, upon the application of the minister and elders of the church there, had been recommended for that office by John Wilson, Richard Mather and Jonathan Mitchell, three leading ministers of "the Bay." The vote having been cast four days later in favor of Channey, the court, in view of the opposition of a considerable minority to the settlement of the new minister and to secure peace between the opposing parties, authorized the settlement of Channey, but granted the minority permission to procure another minister acceptable to the general court. On the eighteenth of May, 1668, Woodbridge, having, it seems, already entered upon his office of lecturer at Windsor, the same court declared "that they shall not disapprove" of his "continuance as a lecturer there, and if that the church and Mr. Warham shall so farre condescend for peace as to give liberty for Mr. Woodbridge to preach once a fortnight on the Sabbath as well as on the weeke day untill some farther time be obtained to improve some other way as an expedient for the peace of Windsor, it shall be acceptable to this Court." ‡

Upon the application of Mr. Warham, the court, on the nineteenth, declared "that the dissenting party mentioned in the order [*i.e.*, of the fourteenth] are those that have liberty granted to them," which implied that church members, if among the dissenters, were included; and thus the way was opened for the formation of a separate church and congregation, to which end steps were promptly taken.

On the eighth of August, 1668, the inhabitants, in town meeting, voted to give Mr. Woodbridge a call to preach once every Lord's day. The record of this vote was made by one of the voters—the town clerk protesting that he had no hand "in assenting to the warning of the town meeting, so called." On the twenty-eighth of September, at another town meeting, it was voted that the selectmen should have the meeting-house repaired "every way that it needs, and to be made comely, upon the town cost." This seems to have increased the discord, inasmuch that on the eighth of October the general assembly, upon application by the officers of the church, and the dissenters who concurred with them in invoking the interposition of the assembly for the promotion of the public peace, appointed a committee of ministers to sit at Windsor, the next April, "or sooner, if they see cause," to hear and determine all disputes concerning the settlement

* Executive Records of the Council, vol. 4, p. 499.

† *Mass. Archives*, vol. 123, p. 29.

‡ *Colonial Records of Connecticut, 1665-1677*, p. 85.

of both Chauncy and Woodbridge, and effect "an accommodation between the church and dissenting brethren of Windsor if they can attain it." If their attempt at pacification should prove unavailing the committee were directed to report the state of affairs at Windsor, with their advice, annexed, as to the best way "to settle peace in the church and town." In the mean time Woodbridge was authorized to continue his fortnightly lectures on the fourth day of the week, but "not on the Sabbath without liberty from the Rev. Mr. Warham."

The report of the committee was made at the next session, in May, 1669, when an order was passed that a copy of "the elders' advice" be delivered to the church, and another copy to the dissenters, who were desired to declare "their consideration about it" to the next court in October. In the mean time the two clergymen were to perform their functions as formerly.

In October the assembly, "to their great grief," seeing no prospect of reconciliation between the supporters of Mr. Chauncy and those of Mr. Woodbridge, declared that they saw no cause to deny liberty to the latter to regularly form themselves into a separate church. A church was formed, accordingly, over which Woodbridge was installed as pastor March 18, 1669-70; and the new congregation met for worship in the town-house, which was fitted up for the purpose. Warham died April 1, 1670, and after his decease the attempts at reconciliation, which had been made, perhaps, at his solicitation, ceased,* and the breach between the two churches and congregations widened. It appears that there was no complaint of heresy or difference of doctrine, but a spirit of bitter antagonism on other matters.

In the winter of 1673 the new society complained to the governor and council of the hostile spirit shown, and of vituperative language used towards them, by members of the old congregation, and by its pastor, culminating in the refusal of the latter to unite with them in keeping a public fast. The complainants represented this animosity to be so intense as to justify them in declining to join with their opponents in making war against the Indian enemy.

In 1676 the old meeting-house having been repaired at the expense of the town, the new society demanded that repairs be made upon the town-house, where they continued to hold their meetings; but this the selectmen refused, on the ground that it was no longer used for the town meetings, for which purposes, only, they were required to keep it in repair. This controversy was settled by reference to a committee chosen from neighboring towns.

About the same time the first church refused to readmit to their membership, without examination, members of the second church. This led to a council, mutually called, whose advice was that the two churches unite and continue in one body as the First Church, to walk together in "the Congregational way of church order," the members of the second church to be examined on admission, if challenged; that "Mr. Chauncy be continued in his office and employment, acting according to the professed Congregational principles; and that Mr. Woodbridge be received to communion and assist in preaching." The second church subsequently objecting to examination, and claiming admission to church fellowship as a body, the council seem to have been again appealed to with a result in favor of the old church. From this time forth the two churches appear to have united, agreeably to the terms proposed in the advice of the council. The next year, in town meeting, the congregation chose a committee to take measures for the settlement of a new minister, until which time Messrs. Chauncy and Woodbridge were to carry on the work of the ministry jointly. A minister was eventually agreed upon satisfactory to both parties; but he declining to accept, new disputes and differences arose, and the bitterness increased.

By the autumn of 1679 it would seem that Mr. Woodbridge's followers were in the majority, and sought to take advantage of their power by attempting to increase the relative amount of preaching of their favorite, with a view to increasing his pay. On the twenty-seventh of October they succeeded in choosing a committee, who were instructed to demand of Mr. Chauncy to share the preaching equally with Mr. Woodbridge. On the second day of December they voted eighty pounds for the ministry, to be divided between Mr. Chauncy and Mr. Woodbridge according to their "respective times and pains in the ministry." If these measures had been adopted the progress to complete control of the pulpit from which Mr. Woodbridge had been excluded, as not having been regularly called, would have been easy; but Congregational usage requiring other qualifications for the ministry than Woodbridge possessed, this attainment of his ends irregularly, and by insidious approaches, could have been defeated by the action of an ecclesiastical council, or an appeal to the civil government. To forestall, therefore, any such adverse interference a vote was passed at the town meeting in October, formally denying that they were subject to "the power of an ecclesiastical council,"—thus boldly asserting their independency.

The next step in their line of progress, however, brought them to grief. Counting upon the certainty of success in their designs, a committee of their body objected to the interference of the constituted authorities, in language which provoked the resentment of the assembly. On the twenty-first of October, 1680, therefore, the latter ratified the finding of the ecclesiastical council of 1677, declaring its advice and recommendations binding in regard to the admission of members of the second church as individuals, but not as a body, and urgently recommending the settlement of a new minister, according to the advice of the governor and council and ministers, in May previous. This paper concluded by warning "all the good people of Windsor . . . not in the least to oppose or hinder the same." At the same time the offending committee were convicted of contempt of the governor, and were severally fined five pounds.

* Less than two months after Mr. Warham's decease a committee of the dissenters, in behalf of "the rest," applied to the general court to have the use of the meeting-house equally apportioned between the two congregations, but this attempt failed, although professedly made to promote harmony; and the separation continued for seven years longer.

On the fourteenth of May, 1681, Mr. Woodbridge, having failed to secure the sanction of an ecclesiastical council, and having applied, by petition, to the assembly, the court, in accordance with their vote to hear him, provided "his people that engaged him (as he sayeth)" would voluntarily appear and join issue with him, heard him, and, on the nineteenth, passed upon his alleged grievances, granting him "two hundred acres of land for a farme," "as a final issue of all matters of strife" about his demands "upon the people of Windsor for his labours there;" they finding "that it may be hazardous to the peace to enter particularly into the bowells of the case, as matters are circumstanced." This final award concluded with a recommendation, "to those of Windsor who have been engaged to s^d Mr. Woodbridge, that now at his parting they would consider their engagements to him and act towards him as they are in duty bound; and we recommend it to Mr. Woodbridge as a freind to peace, that he would rest satisfi'd therewith.*"

Having thus closed his career at Windsor he seems to have looked about for another place where, for want of organized civil government, or by reason of the peculiar state of its ecclesiastical affairs, he could get a hold upon the people by a contract subject to no interference or control by any other indicatory than the courts of law. There was, before 1682, just such an opening in Maine, in the town of Kittery which then embraced Newichawannock now Berwick—the central settlement, and where the meeting-house stood. The inhabitants having entered into a truce with the Indian enemy were wrangling among themselves, being divided upon the subject of baptism. At this juncture, one Woodbridge appears there, engaged in persecuting the Baptists with all the zeal of the Massachusetts bigots, and with greater success, since the tolerant heretics there united for worship were eventually disorganized and driven from the province; but it is not certain that this Woodbridge was the rover from Connecticut.†

In less than a year after his dismissal from Windsor, however, he appears in the new plantation of Bristol, in Plymouth Colony, which, offering conditions entirely acceptable to him, he succeeded in getting a call thither, not to be settled over an organized church, but to preach to an assembly of the proprietors and planters, and others residing there. Here, in a few years, he had worked up a controversy which he himself styled "an unhappy difference betwixt me and some of our gentlemen proprietors; viz., the two chief,"‡ and which he besought Governor Hinckley to use his influence to bring to "a hearing,"—a gratification "stiffly denied" him by the other party, who probably understood their legal rights too well to submit them to arbitration, being confident that he had no claim upon them that any court could or would recognize as a legal obligation.

As in his proceedings at Windsor, he began with very modest claims for compensation, but eventually got a vote of eighty pounds salary. This vote was subsequently revoked, in which revocation he acquiesced, at the same time proposing an arrangement (which was accepted) by which he was to receive a voluntary contribution, to be guaranteed by the town to the amount of sixty pounds. Failing, however, to secure all he desired, he left Bristol in 1685, promising, in a paper which he submitted to the town, to return, "if it might be with peace, encouragement, and joint concurrence," meaning, of course, that he was willing to be taken back upon his own terms. Six of the leading inhabitants of Bristol, in a letter to the elders at Boston, written in May, 1686, referring to the above conditions, say, "neither of which wee thinke he will procure;" and they add, "when wee have been discourseing about gathering a church in this place, he hath not been willing to promote the same in any way, without he could see some certainty of his being settled & called to office therein. And wee the subscribers, having had opportunity to take notice of M^r Woodbridge, his methods & designs among vs, have reason to thinke his settlement here will not be for the glory of God, his good, nor ours; he having had many opportunities wherein to have had a competent, comfortable & quiet settlem^t among vs, & he never having embraced the same, & being he would not be perswaded to fall in therewith, makes vs ready to thinke that his worke will ye rather in some other place then here, & that he is not the man that God intends to doe vs good by. . . & wee doe beleive that if he would make it his own act to leave vs, it would be the readiest way to settle vs, & wee trust God will provide for vs."§

Finally, on the twenty-eighth of June, 1686, the six leading inhabitants who had signed the letter to the elders at Boston joined in a letter to Increase Mather, "to be communicated to the church," asking for the help of the elders and messengers, in an ecclesiastical council to be held on the third Wednesday of July.

Since a church was regularly gathered in Bristol, May 3, 1687, over which was installed the Rev. Samuel Lee, father of the widow George, the third wife of Cotton Mather, it is probable that this was the result of the council, and that the quarrelsome exile from Windsor had received another quietus.

From Bristol he next found his way to Maine. He was in Kittery as early as 1688. Thence he seems to have gone to Portsmouth in 1691, and to New Castle or Great Island, in 1694. There is little doubt that he was at all the places named, which afforded to a person of his disposition opportunities perhaps not so promising, but in some respects quite as attractive, as those presented at Windsor and Bristol. The unsettled state of society attending and following the onslaughts of the Indians, and the loose discipline in matters of worship incident to an unstable population in a state of chronic warfare, while repellent to those of the clergy who aimed for a permanent and quiet settlement in accordance with Congregational usages, was attractive to the more adventurous, and especially to those who were not willing to accept, or not eligible to, positions under the regular orthodox establishment. Perhaps a closer study of obscure details still extant might result in showing that Woodbridge's career at the eastward was much the same as it had been at Windsor and at Bristol; but as yet no one seems to have collected these details.

Woodbridge's experience in Connecticut and in Plymouth Colony had taught him how to circumvent laws and disregard established usages by selecting or contriving an environ-

* Colonial Records of Connecticut, 1678-1689, pp. 78 and 82.

† Miller's History of the Baptists in Maine, pp. 25-27.

‡ Watley and Byfield.

§ Mather Papers in Mass. Hist. Soc. Coll., fourth series, vol. VIII., p. 695.

ment of circumstances in which those laws and usages were inapplicable, or in which their application was so questionable, or so dangerous to other interests, as to exempt him from the consequences of disobedience. Medford having no organized church nor settled minister, but having a sufficient number of legal voters willing to contract with a minister to serve on an indefinite probation, presented an opening quite to his liking. Accordingly, when, on the twenty-eighth of March, 1698, the inhabitants, at a general town meeting properly adjourned from a meeting regularly called two weeks before, voted that, "when legally settled amongst us in the work of the ministry," Mr. Woodbridge should "have forty pounds in money, fifteen cord of wood, and strangers' money, for annuity," he accepted this proposition as if it had been made under a regular definitive call to become the settled minister of the town.

The approach of winter was the occasion of slightly increasing the outlay for the support of the minister, by contracting for a horse to carry him to and from Charlestown, where he resided, and "to meeting on the Sabbath days when there shall be occasion." On the fifteenth of September, 1701, the town voted that he should still continue as their minister; and two persons were chosen "to discourse Mr. Woodbridge, and Know his mind Concerning Settling in the Town in ye worke of ye Ministry, . . . it was also voted . . . that The Town would give Mr. Woodbridge Thirty pounnds for his Encouragement Towards Building a house and Setling, as afores^d. Said mony To be raised either by Subscription or by way of rate, And Further it is to be understood that the Thirty pounnds should be, returned by Mr. Denja^s woodbridge to the Town againe if he did not Settle and Continue with us in the worke of the Ministry, as aforesaid."*

In 1703 he had a controversy with the workmen who were building his house, in which, in the opinion of four prominent ministers of the province, to whom it was referred, his contention was a serious impediment to his settlement, and his treatment of the workmen pronounced contrary to good conscience, while their conduct was applauded. The minister's award was dated the fourth of May; and one month later the selectmen assessed a rate of forty-five pounds three shillings for the cash and the value of the firewood due to the minister, and they apportioned the same among the inhabitants, delivering the warrant therefor to the constable for collection.

Having, by virtue of this assessment, made his grip upon the town secure as he supposed, he felt that he could prevent them from repudiating their bargain by offering to accept a permanent settlement; but the inhabitants, who had been rudely awakened to a suspicion of their minister's true character, were not ready to subject themselves to the trials which they foresaw they were likely to endure under his ministry without some assurance of amendment for the future. One year's trial convinced them that the hope of improvement was so uncertain that, March 6, 1703-4, they voted not to settle him "until some things be better composed" relating to him, and to refer the difficulty to the elders at Boston.

On the second of May, Increase Mather and Samuel Willard, two of the most venerated of the Boston clergy, reported that "if it [a right understanding and good establishment in Medford] appears hopeless to the discerning Christians in the place whereof we at this distance make not our selfs the Judges, it seems better for them to study the best methods of parting as lovingly & as speedily as they can then by continuing longer together & carying on a contrivency to produce exasperations that may defeat all other attempts to come at a desirable settlement."* Nearly four weeks later the town passed the following vote:—

"At a Legall Town Meeting held at meadford may the 29th 1704 being by ajornment from may the 15th 1704 —

And at s^d meeting put to vote That Ensign Francis and John Francis Should Informe Mr Woodbridge that the meeting was ajorn^d to June y^e 19th Ensueing That he might have a further Opertunity to give Satisfaction to the Town and the other dissatisfied persons in s^d Town That the Town might proceed either to a more full and Compleate Settlement, or a dismission —

voted in the affirmative." — *Middlesex Court of Sessions: Files.*

At the adjourned town meeting, on the nineteenth of June, to avoid any dispute on the subject of payment to Mr. Woodbridge of collections above his salary, the account of the committee charged with the duty of collecting it and paying it over was allowed. The amount was eighty-two pounds, in money contributed sabbath days and thanksgiving days, plus "the strangers' money," besides twenty-two cords of wood.

At this meeting, also, a vote was passed revoking the previous votes relating to his salary as a settled minister, as follows:—

"At a Town metinge held by ajornm^t y^e 19th of June afores^d which was in order to make way for a further proceeddure with m^r Woodbridge according to the vote of the Town beareinge date as above s^d That whereas the Town of meadford Invited m^r woodbridge to preach the word of god amongst us In order to his Settling amongst us and did promise when So Settled to give him forty pounnds per yeare in money Fifteen cord of wood and the Strangers money for his Anuall Salary. By which Legall Settlement we Intended no Less then the performing the whole worke of an ordained minister. also the Town voted to give m^r woodbridge Thirty pounnds Towards building his house In meadford, which s^d Thirty pounnds he hath already rec^d of The Town on the same Condition of his Salary aboves^d And Tho we Invited m^r woodbridge to preach the word of God amongst us as aboves^d The Time that he hath continued. With us since s^d Invitation hath been the season of his Probation amongst us. In which Time of probation, m^r woodbridge hath given such offence to the Carpenters that Erected and built his house In meadford afores^d and To Severall of the Inhabitants In s^d Town That it Seems hopeless to us of gaining m^r Woodbridge to give any compitant Satisfaction to the offended persons after Long waiteing and many meanes used and whereas y^e Obligation of the Town to m^r woodbridge was conditional referring to his salary as aboves^d And he not performing the condition on his

* From a copy in the Middlesex Court of Sessions: Files.

part. Therefore at sd meeting for the reasons abovesd Pnt to vote whether the Town on consideration of the abovesd difference and the unlikelyhood of mr woodbridges giving fuller Satisfaction to those that are dissatisfied in sd meadford, whether They will thereupon Make null and void and of none effect the votes referring or relating to mr woodbridges Sallery so far as they had or have reference To a settled minister Notwithstanding any vote or votes to the Contrary —

Voted In ye Affirmative." — *Ibid.*

Upon this vote Woodbridge applied to the Governor and Council in a petition the only details of which (and of the action thereon) that have been discovered are contained in the following entries in the executive records of the council: —

"July 18, 1704. A Petition being presented by Mr Benja Woodbridge Minister of Medford, intimating an unhappy difference of a Civil nature fal'n in there, respecting the building of a Ministry house in Order to the settlement of the Ministry and all the ordinances of God in the place; and hath been managed, rather for hindring, than obtaining the end proposed; and the Christian Religion & peace of the Town thereby much obstructed. Praying that some means of healing may be prescribed by impowring some persons to hear and issue it &c"

Ordered that the Secretary send a copy of the said Petition to Major Nathaniel Wade and Capt Peter Tufts, principal Inhabitants of the sd Town, to be by them communicated to the rest of the Inhabitants, and to present to this Board (if ought they have to say) why a Committee should not be appointed, as is desired, to hear and issue their sd differences, if it may be, or to make Report thereof.

Consented to

J: DUDLEY." — *Vol.*

4, p. 46.

"Nov. 7, 1704. Mr Benja Woodbridge Minister of Medford and the Agents for the said Town, and several of the principal Inhabitants attended this day according to appointment, and were heard upon a Petition formerly preferred by the sd Mr Woodbridge relating to an unhappy difference fal'n out amongst them concerning the building of a house for the Minister; and a receipt being produced for the full payment for said house, and both partys declaring they had no further to challenge on that head, the difference onely continuing by reason of some words which had passed in the management of that affair, and Mr Woodbridge frankly expressing his forgiveness of his people and asking their forgiveness towards him.

The Council advised them to a mutual reconciliation, and to unite in Spirit and love with each other." — *Ibid.*, p. 104.

He had thus secured exemption from liability for any claim on account of the building of his house, the title of which was in him; but he had failed to procure an order from the Governor and Council requiring the town to settle him in the ministry. At this juncture the attention of the grand jury was called to the town's breach of the law, in being without a settled minister. This grand jury was in attendance upon the Superior Court, Court of Assize, etc., held at Charlestown, January 30, 1704-5. This was the first time during the whole period of Woodbridge's probation (which still continued) in which a complaint of this kind had been preferred. The offence of neglecting to settle a minister was cognizable, in the first instance, exclusively by the Court of Sessions; and so the indictment was transferred to the next term of the General Sessions for Middlesex, to be held on the thirteenth of March, there "to be proceeded with according to law." One week before the Court of Sessions convened, a town meeting was held, at which the following votes were passed: —

"At a Generall and Legall Town Meeting Assembled Kept & held at Medford, March the 5th 1704/5 —

At sd meeting, Pnt to vote whether the Town Do Esteem mr Woodbridge to be Legally Settled among them in the Worke of ye Ministry according to ye Intention of the Town, when they voted to give mr Woodbridge forty pounds in money fifteen Cord of Wood, and Strangers money for annuity when legally Settled in the Worke of the ministry. Voted in ye Negative that they did not

2dly. At said meeting pnt to vote whither the Towne were against proceeding to Settle mr Woodbridge in sd Town, wth all ye ordinances of the Gospell under our present Circumstances, which is according to the repeated advice given by the Reverend Elders of ye Neighbouring Churches. Voted in ye affirmative." — *Middlesex Court of Sessions: Files.*

Copies of these votes (from which the above are taken) are on file with the Sessions papers of that term; hence it may be inferred that some one procured the passage of these votes in order to substantiate the complaint against the town.

In the matter of the complaint, the Court of Sessions, having been informed by the agents of the town of the want of a settled minister, had no alternative but to comply with the law, by passing, at their session held at Charlestown, March 13, 1704-5, the following order: —

"Capt Pet: Tufts & mr Steph: Willis appearing in Court in behalfe of ye Town of Medford to Answer their presentmt by ye grand Inquest for being without a Settled minister Informed ye Court that they have been without a Settled minister and are in actual Endeavour to get a Settled minister. The Court order that they take effectuall Care to obtaine a Settled minister, and make report of their doings therein to ye next Court of Sessions." — *Records of the Court of Sessions, in the office of the Clerk of the Courts for Middlesex County.*

In the interval between the presentment of the town by the grand jury, and the March term of the Court, Woodbridge was contriving another scheme for discomfiting his opponents. By the vote given below, passed at the town meeting above mentioned, it appears that, after failing to coerce the town into settling him as their minister according to law, he had resorted to the method he found so useful for his purpose at Windsor; that is, to gather an independent church and congregation in defiance of the rules of Congregational discipline and the laws of the province: —

“At a Generall and Legall Town meeting assembled kept & held at Medford the 5th of March 1704/5

Whereas Mr Woodbridge hath lately attempted the gathering a Church in meadford Contrary to y^e repeated advice of y^e Elders in y^e neighborhood tho y^e whole procedure hath been highly Irregular and done without advice or respect to y^e Inhabitants of the Town, and without y^e Countenance & Concurrence of the Neighbour Churches; and if he Continue among us after this manner, there will be a foundation laid for Endless Confusion and Contention in this Languishing Town —

For these and other such Considerations The Town Do declare themselves highly dissatisfied at Mr Woodbridges late irregular attempts & actions about gathering a Church, and Do protest against his going on in y^e offensive way he is in, And forbid his preaching any more in their publick meeting house — Voted in y^e Affirmative.” — *Middlesex Court of Sessions: Files.*

This protest by the legal voters of the town against Woodbridge's irregular practices led to the calling of an ecclesiastical council, which was held on the tenth of July to ascertain where the blame lay for the troubles between the pastor and congregation of Medford, and to advise a remedy. The following record of the result of this council presents a more convenient statement than it has been found practicable to frame of the reasons, method of calling, and decision, of this council:—

“The Result of a Councill of Six Churches mett att Medford July y^e 10: 1705

After Solemn calling on God in Prayer for guidance & direction we do declare & advise as followeth

I Being desired in y^e Letters missive which we received to convince of & testifie against, those evils which have obstructed y^e quiet & regular settlement & joyment of all Gospell ordinances, in Medford, we find that Mr Woodbridge has been a Chief blameable cause of those obstructions, & Among other things in Such particulars as these

1 He did reflect on those 4 Rev^d Ministers, who heard Some matters of difference between him & y^e workmen, imploy'd in building his house, as being prejudiced persons.

2 He did reflect on y^e workmen, who built his house, by insinuating as tho they were uneasy & troubled in mind for taking y^e monie w^e y^e ministers adjudged due unto them.

3 Since y^e Advice of y^e 4 ministers, he charged the workmen as owing him 30 pounds.

4. The Steps w^e he took towards gathering a Church, as to y^e time, & under y^e then Circumstances of y^e Town were very unadvised, & obstructive to y^e regular Settlement & enjoyment of all Gospell ordinances in that Town.

II We apprehend the Town of Medford acted blameably, in their Votes about Silencing Mr Woodbridge & taking away his Salary, unless they had taken Some previous Steps more then we are sensible of.

III It's probable y^t in those unhappy differences between Mr Woodbridge and his opposers, his Said Opposers have let drop unsutable Expressions which they Should be ready, to Acknowledge & ask forgiveness for.

Upon the Whole We Apprehend

1 That Mr Woodbridge should by sutable Acknowledgment indeavour to ease y^e Minds of those aggrieved by his foresaid unadvised Steps, & those unsutable & offensive expressions which he has uttered.

2 That after such indeavours of Mr Woodbridge he preach for a while in Medford and y^e Inhabitants their attend on his ministry, & y^t they mutually endeavour to ease one anothers spirits; in order to a peaceable Christian agreement between them that they may enjoy all Gospell ordinances.

3 If after some sutable time for triall, Such agreement cannot be obtained that they part from one another as quietly as they can.

4 We wish y^t if differences so prevail y^t Mr Woodbridge mnst cease from the work of y^e Ministry in Medford, y^e People of said Town would consider & endeavour y^t he may nott suffer unreasonably in his outward Estate.

JOSEPH EASTERBROOKE

Moderator

by order of y^e Councill.” — *Ibid.*

The judgment of the Court of Sessions upon the presentment of the grand jury having apparently failed of execution, a new presentment was found on the eighteenth of September, for the same offence. This presentment seems to have been as ineffectual as the other.

After the lapse of more than a month, Mr. Woodbridge still neglecting to follow the advice of the last ecclesiastical council, the principal inhabitants of the town addressed to him the following conciliatory proposal:—

“To Mr Wodbridge

Reuerend Sir we whose namas are under written doe declare our selfs still vnsatisfied as to that sutable acknowledgement you were aduised to giue to the agreed party in medford by the Councill meet at medford on July y^e 10th 1705 & we as we hane formerly done are willing still to show our selfs of A Complying spirit soe far as to refer the matter to as many of the Councill aforesaid as may be gott together some day at Boston after lecture to determine whether the acknowledgement you hane made be sutable according to the aduice of said Councill provided the thing be spedily done & we pray it may be done & we are willing to submit to there aduice

Medford october 22: 1705

PETER SECOMB	JOHN HALL
FRANCES WHITMORE	STEPHEN HALL
THOMAS HALL	STEPHEN HALL Jun ^r
THOMAS WILLIS	JOHN WILLIS
NATHANIEL HALL	ELIEZER WISE

PETER TUFTS
THOMAS WILLIS
STEPHEN WILLIS
JOHN WHITMORE
JOHN BRADSHOE
JONATH ⁿ TUFTS.” — <i>Ibid.</i>

This paper was subsequently lodged with the clerk of the Court of Sessions, as evidence, and was endorsed “The agreed persons offer to Mr Wodbridge.”

No other response to this Christian-like proposal has been found than two actions at law

instituted by Woodbridge; one, in the Court of Sessions, under the province act of 1702, chapter 10, giving that court authority to order the assessment of a rate to collect the minister's salary in case of delinquency by the regular town officers; and the other, in the Inferior Court of Common Pleas, against John Whitmore, housewright, for the amount of contribution received by him, to Woodbridge's use, on five sabbaths in September, October, and November, which Whitmore, it was alleged, neglected and refused to pay over on demand. The precept for warning the selectmen, in the former case and the writ, in the latter, were dated the twenty-third of November, and the courts were held, together, on the eleventh of December. The amount demanded on account of the collections was apparently about three pounds.

Woodbridge's complaint and the answer, or plea, of the town are as follows:—

“To the Honnoured Court of Sessions for the county of Middlesex sitting at charles-towne Decemb: 11th 1705.

The complaint & humble addresse of Benjamin Woodbridge minister of the Gospel at Medford.

Sheweth.

Whereas the town of Medford did by a unanimous vote, cal, & invite me, to the work of the ministry in this place, & I have according to my ability served them faithfully, in y^e work of the ministry eight years, & upward, & whereas for my encouragement they did make an agreement to pay me for my service, as is extant by their votes in y^e town book. & did make good their covenant & agreement with me, for about four or five years, & took their discharge for that time. But of late, through an unquiet & discontented spirit in some, my maintenance hath not only been neglected, but some have hindered, & acted against it: So that there is about sixty pounds due according to their covenant, & agreement with me, which I cannot get. I did once by reason of the difficultyes & discouragements I met with, move to them in a town meeting, that I might fairly & lovingly be released from my bonds & work in this place, (having at that time an opportunity of a better settlement elsewhere) but my motion was refused; & not complied with. I humbly present to this honnoured Court, my unreasonable sufferings, intreating I may be paid for the work done according to agreement, or if they plead the agreement to be made void by their act, that then my salary may be stated by this Honnoured Court according as the law directs, And I would humbly entreat that it may be ordered so as that there may be an equality, not that some are eased, & others burdened, for it is apparent amongst us that some have acted more commendably, & christianly in the discharge of their dues, when others have paid back for a considerable while, & done little or nothing. I would further signify to this Honnoured court, that I have constituted my trusty, & Honnoured friend Paul Dudley Esq; to manifest how just, & equitable it is that I should have a recompense for my work done according to agreement, & to intreat the priviledge of y^e law, & y^e favour of this Honnoured Court in the behalfe of

your humble & suffering petitioner & suppliant

Reced & filed. 23d. 9th. 1705.

BENJ: WOODBRIDGE.

The Def^t answe^r That M^r Woodbridge is not a Settled Minister according to Law in y^e Towne of Medford, & therefore is not Entitled to a maintenance amongst them

P^r Jⁿo VALENTINE att^r. — *Ibid.*

The following paper of specifications against Woodbridge's conduct is also on file:—

“The unreasonableness of mr Wodbridges differing with the workmen that built his house (amongst other things) may appear as followeth

I in that they asked him noe more p^r day for there work about his house then they could have had of others & there diett besides

II they offered mr wodbridge to put there work to an aprisement & they would bring in an account of there days works & that men chosen to aprise said work should take an account of days works & uelw what work we had done by those days work & gine us what they please & we would be content

III that they abated m^r wodbridge thre povnds apeice each workman out of that reasonable price they asked for there work merely to buy there peace & yet could not obtain it

as attests

Medford decemb 10: 1705

THO WILLIS

STEPHEN WILLIS

JOHN WHITMORE.” — *Ibid.*

Upon the foregoing complaint by Woodbridge the Court ordered the clerk to issue a warrant to the selectmen to forthwith call a town meeting to choose and empower some suitable persons to appear and answer for the town on the last Tuesday in December, to which time the Court was adjourned for a further hearing. This mandate was obeyed, and on the nineteenth the inhabitants chose and empowered Captain Peter Tufts, Lieutenant Stephen Willis, and Mr. John Whitmore, to appear for them.

In the civil action the case was committed to a jury, who found for Woodbridge fifty shillings and costs of court; and judgment was entered up accordingly.

After the date of the complaint and writ, and before the return day, Woodbridge appears to have enlisted the support of an active minority, who prepared the following protest, still on the court files:—

“Wee whos names herunto subshribed being propriators* or Inhabitants of the Towne of medford doe herby manifest and declare our dissent and Protest against any choice that shall or may be made of any Person or Persons to hinder the payinge any money or monyes for and towards the disrestinge or hindrance of the Reuerend m^r Benjam^m: Woodbridge our caled and Present minster from his demanding and Resening what is or may be Justly his due according to agreement mad by said Towne and we count it our duty to Performe the Same both by the laws of God and man Neither will we doe any thinge to hinder or discourag or diseste him in the work of the ministry amongst vs also we are redy to contributt and pay our Just proportion if not all Redy paid and we are not ashamed to manifest our minds herin to Towne or county or to any Honnorable Court of Judicature that

may settle said affaire we desire this our minds may be Recorded in our Towne book to prevent further trouble if it may be.

datted in Medford aforsaid

y^e 1 day december 1705 :

JONATHAN HALL

NATHANELL HALL

WILLIAM HARWOOD

THOMAS HALL

NATHANLL PEIRCE

DUDLEY WADE

JONATHAN WADE

EBENEZER NUTTING

BENJAMIN PEIRCE

STEPHEN FRANCIS

RICH : ROOKES

JOHN FRANCES

EBENEER BROOKS

SAMLL BROOKS

[Endorsed:] Some Inhabitants of Medfords dissent." — *Ibid.*

Woodbridge found the town meeting on the nineteenth opportune for springing upon the inhabitants a scheme by which, in the guise of injured innocence, he might make a favorable impression upon the authorities, who did not fully understand the case. To this end, while pretending to ask only for a compliance with the advice of the council as to a settlement, he presented a paper, offering the congregation the single alternative of dismissing him, or choosing him and no other. If they chose to dismiss him, then he proposed to take advantage of their urgent desire to get rid of him, by an exorbitant estimate of the value of the real estate, at which rate he requested them to purchase it of him under their original agreement. This paper, which, with a statement annexed, was duly filed in court, was as follows:—

"To y^e inhabitants of y^e town of Medford. At their meeting Dec: 19: 1705

It is known to you, how y^t I have by a unanimous vote & consent of this people been called to, & settled in y^e work of y^e ministry in this place, & you may remember y^e time when y^e people did generally pretend a high love & respect to me & to my ministry, & though I have served you 8 years & upward with faithfulness in y^e work of y^e ministry according to y^e measure of grace given me, yet I have had great discouragement in my ministry from some, (I pray god it may not be layd to their charge) though on y^e other hand there are many, that have continued their love & kindness & I doubt not but god will remember it, & reward them. I have proposed to y^e unsatisfied persons two means of healing one y^t they should come to me personally, & privately to reason y^e case. The other y^t we might mutually invite six ministers of y^e six churches to whom our affairs by mutual consent have been referd, to come, & forward y^t Xtian & peaceable agreement, we have been advised to, neither of which have been yielded to. I perceive there is still a spirit of opposition ag^t me or my ministry here I have attended y^e late council in their first & second step, & am now come to y^e last. And do therefore now propose for a quiet & loving parture, & to y^t end that y^e town would forthwith appoint men to come & take sufficient deeds for, & possession of, y^e house, & land, & other appurtenances according to what was agreed to by your vote Dece 15: 1701. that whereas it is now my propriety, & in my possession it may be conveyed over to y^e town of Medford for y^e use of y^e ministry. And y^t you reimburse y^e money y^t I have been out upon it for your sakes, that I may not suffer unreasonably in my outward estate, & y^t you pay my arrearages that are behind, for my work in y^e ministry according to agreement. (an account I will give underneath) And y^t there may be given at y^e same time, a mutual release & discharge to, & of each other. And for your encouragem^t herein, I will be at y^e cost of my owne removal, & will also give twenty pound in money for y^e settlement of y^e next minister, & deposite it in y^e hands of such men as you shal now chuse. And I would pray your compliance, or y^t you would contend no more with

your faithful though almost discouraged minister

BENJ: WOODBRIDGE

I desire this may be recorded in your town book.

	<i>l</i>	<i>s</i>	<i>d</i>
The expences upon land house fensing &c as drawn from my book	249	8	1
For y ^e use of my money expended for y ^e benefit of y ^e town they being by vote to provide housing for y ^e minister, & it being often told me, that by my living here they saved 12 ^l p annum, tho: others would gladly have gave me more for y ^e use of my money, computed at 3 year & halfe at 12 ^l p annum	42	0	0
The difference of money expended at 17 penny weight & received at 15 penny weight for 6 shillings, according to my computation comes to about 40 ^l . 16 ^s . 4 ^d	40	16	0
Arrearages from June 17 = 1702. to Decemb = 17 = 1705, according to my accounts	58	18	9
It is to be understood y ^t there is y ^e contribution of 9 Sabbaths yet in m ^r Whitmores hands y ^t I allow credit for, but in that I cannot yet have y ^e account of y ^e particulars, I have not deducted it out of y ^e arrearages, but it shal be as soon as I can obtaine it			
Sum total	391	2	10

A copy." — *Ibid.*

He also presented at the same meeting an account of arrearages to the seventeenth of December, in which he claimed a balance due him of fifty-five pounds. To this, after the paper had been filed in court, he added a credit of one pound nine shillings for other contributions "that were detained."

The complaint came on for hearing on the twenty-fifth of December, when the Court decided "that m^r Woodbridge is not a Settled minister at Medford and Said Town being without a Settled Minister according to Law, Order that y^e sd Town of Medford Do forth with provide them Selves of a minister qualified as the Law directs, by the next Generall Sessions of the Peace to be holden for Midd^x and make return of there doings therein to y^e Said Court, on paine and penalty of being proceeded wth as the Law directs in Such Case made and provided." *

A town meeting, duly warned, was held January 21, 1705-6, for the purpose of complying with the order of the Court of Sessions, when a committee of three was chosen "to advise with the Fellows of Harvard Colledge in Cambridge and Seeke their help in the obtaininge And providinge Summ Other Suteable person or persons from time to time to preach the word of God amongst us. In order to s^d Towns makinge choice of Summ person qualifid as The Law directes to settle with Them in the worke of the Ministry as Soon as conveniently may be obtained." * At the same meeting it was further voted that "the persons that are this meeting appointed to procure a minister to preach in s^d medford (viz) cap^t Peter Tuft Liev^t Thom^s [Willis] and m^r Jn^s whitmore, should Informe m^r woodbridge That they were appointed to provide a minister to preach with them by power of and according to the Town vote forthwith and request of s^d m^r Woodbridge That he would not hinder Interrupt or disturb Any Minister That they Shall Provide." *

Four of the supporters of Woodbridge appeared at this meeting and filed their written dissent from the above votes. Representation having previously been made to the Court of Sessions by these dissenters that ten other inhabitants concurred in their dissent, and a list of the names of the fourteen having been presented to the Court, another town meeting was held on the fourth of March to determine the question "whether said town will forthwith proceed to settle Mr. Woodbridge amongst them in the work of the ministry?" This question was decided in the negative, thus depriving the dissenters of all foundation for arguing that a considerable number of the inhabitants were opposed to the dismissal of Mr. Woodbridge.

At the March term, 1705-6, of the Court of Sessions, the town was again presented by the grand jury as before; but the time had arrived, in the minds of some, evidently, to assume the aggressive and to invoke the aid of the court against the litigious minister. The provincial marriage-act declared that "no person other than a justice of the peace . . . or ordained minister, and that only in the town where he is settled in the work of the ministry, shall or may presume to join any persons together in marriage." † Now, on the thirteenth of December ‡ the marriage of John Francis and Elizabeth Frost had been solemnized, and Woodbridge made return of the fact to the town clerk. Complaint being entered against him he was presented, for this breach of the law, at the same term in which the presentment had been found against the town.

An innovation in the practice of town clerks appears to have been introduced in some of the late town meetings. This was complained of to the Court of Sessions at the same March term. Like a similar proceeding in Windsor this innovation was in the interest of Mr. Woodbridge, but in the present case the entry was made by the town clerk, and not by a stranger; and the ground of complaint was that the entries were made privately and without the knowledge or approbation of the selectmen. Since Bradstreet, the town clerk, was Woodbridge's nephew and disposed to help his cause, the declaration of the selectmen, that by the practice of entering protests and dissents without the authority of the town meeting or the knowledge of the selectmen "town records will be in danger of being mixed with fallacies and falsehood," may have had a special application.

At the same time the committee of the town appeared and filed the following answer and motion:—

"To the honored Court of the sessions at the County of middl^s sitting at Charlstowne march y^e 12th: 1705[-]6

whereas the honored Court of the sessions holden at Charlstowne for the County of middx on decemb^r 25th 1705 did find the towne of medford to be without a settled minister & ordered sd towne forthwith to provide themselves with a settled minister & make return of there doings therein & whereas said towne hath made choise of us whose names are under written to make return to this honored Court of those proceedings in order to the obtaining a minister for said towne & we the subscribers being the same persons Chosen by the town to provide a minister

These are to acquaint this honored Court that at a towne meting legally Conuend & timely notified said towne made choise of us who are the subscribers to provide a minister as is directed in the towne note for that End which we proceeded in soe far as to gett a promise of a minister to preach with us on the Saboth in case m^r Wodbridge would not hinder nor Interrupt him in s^d work upon which two of us of the said Comittee with two other persons went to m^r wodbridge & acquainted him with what we had done referring to a minister according to the towne note & at the same time showed him a copy of a towne note under the towne Clarks hand wherein the towne did desire m^r wodbridge not to disturb or Interrupt any minister that sd committie got to preach with them &c alsoe we did then desire him to declare his mind whether he would comply with the towne desire expressed in said note or nott upon which m^r wodbridge said the pulpit was his & he would preach in it which is the reason why your honors order for the setting a minister in medford cannot be obtained nor towne notes refering thereto prosecuted to effect and if your honors take not effectuell care for some releif in this our distressed condition peace & order amongst us is like to be buried in a heap of disorder and confusion (which we pray for your sessions consideration of & help in)

& further we said subscribers would further acquaint this honored court that whereas there was a paper gluen in to your honors at the last session of the peace holden at Charlstowne vnder the hands of fourteen men which is generally reported as if these fourteen persons were for the setting of m^r wodbridge in medford & we vnderstand that the End of several of those persons aforesaid in signing said paper is misrepresented which was one great reason why at our last generall towne meting on the 1th day of this Instant murch it was put to vote whether the towne would forthwith proceed to settle m^r wodbridge in the work of the ministry that soe it might be knowne whether the mind of the towne were according to the report abroad (& not one person that held up his hand for setting m^r wodbridge) & if your honors would please to send for those fourteen persons aforesaid (whose

* Middlesex Court of Sessions: Files.

† Province Laws, 1705-6, chapter 2, § 4.

‡ 1705.

names are lodged with the honored Court) to examine who of them are for settling Mr Woodbridge & what there end was in signing the foresaid paper (we humbly Conceine) it might satisfie your honors more in order to any step your honors may take for our further releif & prenent fals reports & might be helpfull in Remouing of some blocks out of the way of the towns proceeding in getting a minister & that we may obtain the favor & help of this honored Court: we pray: in the behalfe of said towne who are your humble petitioners & supplicants

Medford March 11th: 1705-6

PETER TUFTS
THO WILLIS
JOHN WHITMORE." — *Ibid*.

Upon this paper is endorsed "Mr. Tufts &c motion Summons to go out thereon."

To this answer Woodbridge made the following reply: —

"A briefe but ful answer to the complaint entred against me, to the Honnoured court of Sessions for the county of Middlesex sitting at Charlestown March: 12: 1706. Subscribed by Peter Tufts, Thomas Willis, John Whitmore.

One thing they assert is that, they were chosen to provide a minister, at a town meeting legally convened, But as I objected to them, so I do stil, that the meeting on Jan: 21: 1705-6. for that end, was neither legal, nor orderly. Though I allow it to be a prudential, & belonging to the townsmen, to appoint a meeting to cal a minister where a town is destitute, yet it is not when a town is supplied, & hath a minister incumbent, & settled in the place, & work of the ministry, by a unanimous agreement, & in an orderly way, & therefore I sent to them, that the town might first release, & discharge me, & I them, according as I had before proposed, & desired, & they could not act orderly, nor peaceably, til that was done, unless they would have an other in conjunction, with him, that they already have, which I doe not oppose. And it is a very poor complaint against me, that I sayd y^e pulpit is mine, & I wil preach in it, when the town of Medford have by a ful unanimous agreement, invested me in that right, by calling me as their minister, & desiring me to continue as their minister & refuse to reimburse, & pay my arrears, that there may be a mutual release, & discharge according as I have put in my proposal to them, a copy whereof is lodged with this Honnoured court. Neither according to our constitution or principles in this country do I know of any other way, or power, in the land, whereby the relation can be dissolved, or the relative duties, incumbent on minister, & people can be dispensed with, or they mutually freed from them, for as it is the mutual consent, & agreement of minister, & people that makes the relation, so it is y^t only that can dissolve it. *Ejusdem est instituere, et destituere.* & it manifests a very unworthy, & unchristian spirit for any one to desire my removal, without such a discharge, I having devoted my selfe to y^e work of y^e ministry amongst them, not as an intruder, but on their unanimous desire & consent, & have already served them in y^e work of y^e ministry about 8 year, & halfe And it seems somewhat strange that they should seek reliefe or order or peace from this Honnoured court, when it is they y^t make y^e disturbance, & confusion. If they would attend the rules of our Lord Jesus X^t As Rom: 14: 19. 1 Thes: 4: 11. & 5: 12. then they may be quiet under their owne minister, that they have set up, or else release him & seek an other.

BENJ: WOODBRIDGE,
minister of y^e Gospel at Medford." — *Ibid*.

Woodbridge also submitted to the Court the written address given below, in which, under pretence of renewing his complaint and address, to the same tribunal, which was heard on the twenty-fifth of December, he stated his case fully. After the detailed statement above given of his relations with the town, it is needless to point out the elaborate disingenuousness of the reverend pleader. It is interesting, however, to observe the cautious manner in which he hints at the control which "a higher board" might possibly be asked to exercise in case of the denial of his prayer. The experience of his too zealous friends at Windsor, who were fined for their contemptuous language in his behalf concerning the Governor, had evidently taught him the expediency of moderating his language so as not to savor too strongly of a threat. The address was as follows: —

"To the Honnoured Court of y^e General Sessions of the peace for y^e County of Middlesex held at Charlestown March 12: 1705-6.

The humble Adresse of Benj: Woodbridge minister of the Gospel at Medford
sheweth.

That whereas I did at the last session of this Honnoured Court, put in a complaint, & petition to this Honnoured court, (as the Law directs) respecting my arrearages that were behind, & unpaid by the town of Medford, & gave in the account of them, with hopes, & expectations of reliefe from this Honnoured court, in my suffering condition, and though the court did appoint a time by adjournment for the hearing of the case, & did hear it, on the 25 day of December Last past: yet there is nothing done for me, nor any reliefe granted, which puts me upon the renewing of my address to this Honnoured court in-treating that I may have that justice, & right, that the Law directs to, & may not have occasion of complaining to a higher Board. Indeed I have seen a copy extracted from the minutes of the court, wherein is declared the opinion of this Honnoured court that I am not a settled minister at Medford. I would intreat the Honnoured court to hear with me, if I say I know not their meaning therein, I believe the Honnoured court never meant that there should be such il constructions put upon it, as I perceive some have done, Some plead it to exempt them from their just debt, that was due before the Honnoured court gave it forth, some reckon they are hereby exempt from reimbursing the estate I have layd out at their desire, & for their sakes, in case of a removal & discharge, as I have proposed for, the copy of which is lodged with this court, & some plead themselves hereby freed from attending the publick ministry, & many other il constructions I have heard of. Moreover I cannot se upon what this opinion of y^e Honnour'd court is founded, I have examined as far as I can, the principles & constitutions of this country, both civil, & ecclesiastick, And do find that where a town, or people, or congregation, destitute of a minister do by a free, & ful, & unanimous cal, & consent, desire a person that is ordained

to, & qualified for the work of the ministry, & approved of as such, by ministers, & churches in the neighbourhood, & round about, to undertake the work of ye ministry in a particular place, & to become their minister, & he doth accept it & devote himself to the work of the ministry in that place, & they renew their desires, & vote that he should stil continue as their minister. (As was given in, to this Honourred Court, in their vote of Sept: 15: 1701 and he stil continue, according as they desired, in ye office, & work of the ministry amongst them, & they refuse to give him a release, or discharge, I cannot se but such an one. is a settled minister at such a place, & that such publick, & solemne covenants are not nullities. Gal: 3: 15. Indeed there is a sense in which I may be said to be unsettled, in some measure. After these unanimous & solemne agreements that were further confirmed, & ratified, by mutual laying out of money by me, & the town on the account. Some Capital men having lead the town, (themselves being chiefe actors) to make an agreement respecting a house for me to live in, to serve them in the ministry, according to former cove^t or agreem^t, were afterward unwilling to stand to it, & by quarrelling, & indirect meanes got more from me, then I agreed to, or the work was worth, & being told of it, grew into a discontented frame, & have raised many clamours against me, & opposed my ministry, & obstructed the settling of the sacrament of ye Lords supper amongst us. And have sometimes got such a party, that have made some votes contradictory to what themselves, & the town had before voted, & settled, & unanimously agreed to with their minister, & by that meanes have brought in unquietnes unsettlednes & confusion. & hence they are opposers (according to ye saying, *Odisse quos laceris*) And this I must declare, to this court, & al ye world, (as far as I understand) is the foundation & substance of al this noise, & disturbance, But no sufficient ground (as I conceive) to deprive me of what is due, for my labours amongst them. I have served them with great difficulty, & under great discouragements, & cannot yet get a release. I have constituted my Honourred friend Paul Dudley Esq; further to shew to this Honourred Court my unreasonable sufferings, & how just & equitable it is, y^t I should be relieved, & paid for my labours, & I intreat he may be heard in the case. It may be, it may be * my infirmity but I cannot but believe, & perswade my self, that had he not been providentially hindered at the last hearing he would have so opened the equity of my petition, & the agreeableness of it to law, & justice, & how unreasonable it is that if 3 or 4 persons take up a causelesse disgust, or discontent against their minister, that they should detain his just dues, & endeavour to break the publick agreements of the town, these things I believe would have been so opened, that I should have had reliefe the last time, & no occasion of troubling this Honourred court at this time.

So prays your humble petitioner, & supplicant,

BENJ: WOODBRIDGE." — *Ibid.*

The Court was adjourned to the twentieth of March, to try the presentment of the town for neglect to settle a minister; to consider the complaint of the selectmen against the town clerk for irregular entries in his record; and to hear the reasons of those who signed a protest against the dismissal of Mr. Woodbridge. Precepts were issued to the constable to notify the parties to appear; and, accordingly, four of the protesting minority appeared and filed the following paper of reasons: —

"To ye Honored Sessions Holden at Charlestowne By aJurnemen ffrom ye 13th this Instant Marteh to ye 20: 1705/6 —

Wee ye Subscribers haueing bene notified to gine in our Reasons if we be not misinformed why we haue Entered our desentes Against sunn Prosedeeings against Mr Woodbridge Vidilliset Is y^t Mr Ben: Woodbridge had an vnanimose Call by all: & Afterwardes voted by ye Towne y^t he shuld Continue our minister still: and we wear Realle in it and ye Towne of Medford voted to Gine Mr Woodbridge Thirty Pounds towards Building his house In Medford which was ffor his incuragement to settell among vs in ye worke of the Ministry & ye Reuerent Mr Woodbridge Came vpon this Call: and Lade out a Considera^{bl} Estate amongst vs at our Request: & so beCame our Minister by aGreement: & with submision to your Honor^s this aGreement Cant be Broke without ye Consent of Both Parties: but throw ye vnEasynes of sunn Mr Woodbridge has Proposed tearmes ffor A Parting: & this has bene Lade before ye Towne a Considerabell time we desire y^t an answer may be ginen to it: but we Could haue none & y^t if his Apposers would Reimburs^t him & ye sd Towne would Pay his Arrearigis then we would Ioyne with them in Call-ing of an other tho Greatly to our damage: the Answer was this that it was ye Appinion of ye Court that he was not our settled Minist^r & so his apposers Pleased y^t they ought him nothing: so then wee told them y^t wee would Enter our desentes against ye Chusinge Aney other till Mr Woodbridge was fareley dismist: wee haue ben Charged y^t we will take no Aduise y^t is not so it being Left by Consent to his Excellencye & Counsell of which your Honor^s being Part: after a due and deliberate hearing of ye Case ye Aduise then was Given ffor to fforgive Each other: Mr Woodbridge then asked ffor Ginees & sade that he was Ridely to fforgive them: & Likewise we take vp with ye Aduise of ye Excelesticall Counsell met at Medford July Last: & ye Aduise was then ginen to Mr Woodbridge & his apposers: y^t they shuld mak a Confeshon of both sides which Mr woodbridge did but his apposers would not

And fforther ye Aduise was to Inducen to Ease one anothers spiritres and In Case y^t Diffrences Preialed: thare aduise was then ffor a Parting & to se y^t he shall not be an vn Reasonabell sufferer in his outward Estate & If this aduise had bene taken vp with all we had not trubled our neighbours with Entring of our desent In our Towne Booke

STEPHEN FRANCIS

EDMER BROOKS

JOHN FRANCES

NATHAN^l PERCE." — *Ibid.*

The most important paper in Woodbridge's behalf, however, was the following certificate by Mr. Nathaniel Wade, one of the selectmen, a prominent citizen, and large tax

payer (who seems, thus far, to have taken no active part in the controversy), which was filed at the same time :—

"Thes may satisfi thos it may consern that wheras there hes Been a Long and tedious diferenc Betwen the Reverent mr woodbridge and s^m of the town of medford, I whos Nam is vnder wrighten who had a hand in voting sd woodbrig in to sd town for to Be our seteled mininster I do Reslove* that in the mind i have Been and am now in wil have no hand in voting of him from the work of the ministeri a mong us as witnes my hand
march 19 1706

NATH. WADE

to the truth of what is aboue written i haue herevnto sett my hand

STEPHEN WILLIS." — *Ibid.*

The committee of the town filed the following answer to the above address by Wood-bridge :—

"To the Honored Court of the Generall Sesions of the peace for y^e County of middlesex held at Charlstownte march y^e 20th 1706

that wheras mr Benj Wodbridge hath renewed his address to this Honored Court referring to his areares that he pretends to be behind & unpaid by the towne of medford & complains of some things in said adrese that we know nothing of : In Answer to which we who are subscribers in behalfe of sd towne declare as followeth (namly)

I mr Wodbridge doth signifie as if he understood not the meaning of the honord Court in declaring there opinion that he is not a settled minister at medford which we do not see much wonder at because we haue experienced to our great disadvantage that mr Wodbridge cannott or rather will not understand nor Comply with Court nor Concill in there determinations Concerning him any further then will suitt with his owne Interest

II mr wodbridge pretends some ill Constructions put upon your honors opinion that he is not a settled minister as aforesaid which ill constructions we know nothing of nor who made them & if mr wodbridge did not make them himselfe yet we humbly conceine it would haue been more for the Credit of mr Wodbridge to haue stopt his eare against such Reports (till he had more reason to Credit them) then to offer such friuolous things to the honored Court as matter of Complaint

III wheras mr wodbridge pretends himselfe a settled minister in medford (1) by reason of his being approued of by ministers & churches in the neighbourhood how far who of the reuerend ministers in the neighbourhood haue given there approbation of mr wodbridges setelment in the work of the ministry priuately to himselfe we know not : but when the towne hath at any time aplyed themselves to any of the reuerend ministers we haue not been aduised to settle mr wodbridge as may further appear under there hands (2^{ly}) he argues his setelment from a note of the towne that noted him to Continue as there minister which note was noe other wise Intended then to continue to preach in medford as he had formerly done which note was before the towne by any note of said towne had Inuited him in order to setelment 3ly mr Wodbridge pleads his setelment from sollemn conauants and agrements betwene him & the towne & brings Scripture to proue such conauants are not to be disanulled nor added to by which Scripture we humbly conceine he argues against himselfe in that the notes of the towne (which he terns sollomne conauants) were conditionall & yet he seks to make them absolute & yet hath not performed the condition himselfe soe that in shortt those (2) notes of the towne (namly) 1 that note to giue mr wodbridge 40 pound mony wood & strangers mony &c when legally settled in the work of the ministry & (2ly) that note of the towne to giue him 30 povnd towards his building in medford for his Incouragement to settle with us in the work of y^e ministry on that condition to be returned to the towne again in case he did not settle with us in the work of the ministry as aforesaid which conditionall notes afore said are the sume & substans of those sollemn conauants that mr wodbridge pretends to be made betwene him & the towne & seems to lay a great strese upon which we conceine to be more pretence then Reality (4ly) mr wodbridge pleads the towne Refused to giue him a release or discharge we know not what he meaneth by a release being refused when as he hath bene released (if euer he were bound) by towne notes & by the late aduice of the counnill of churches & by a late note of the towne according to order of court to the towne forthwith to get a settled minister soe that we humbly conceine said towne hath more reason to complain of mr wodbridges preaching against the mind of the towne then he hath to complain for want of a release

IIII mr wodbridge in his complaint doth charge some peticular persons which cannot be understood of any other persons but the workmen that built his house in medford & saith that by quarrelling & Indirect meanes got more from him then he agreed to or his work was worth &c : which charge we said workmen doe esteeme a fals accusation & doe humbly beg of your honors liberty to make it appear to your honors how easie we haue been with him about said building & those gentle steps we haue taken to Isue that differens which had he complied with might haue isued those differences

V mr wodbridge complains of the obstructing the sacrament of the lord[s^t] snper amongst us in Answer to which (for breuities sake) we reffer your honors to the aduice of the late counnill of churches mett at medford which is expressed in the 4th article of there result

VI that wheras mr Wodbridge hath the confidens to charge the towne or some pirticular persons in said towne to be a means to bring in vnquietnes vssetlednes & confusion & the foundation of all this noise & disturbsns we humbly conceine it doth reflect upon the honorable Counnill lately meet at medford who in there Result : say : we find mr wodbridge to be a cheiff blameable cause of obstructing the quiet & Regular setelment & Inioynment of all Gospell ordinances in medford

VII mr wodbridge in his complaint returns to that he principally aims at in his long discourse to get his dues as he terns it : & doth principally blame 3 or 4 persons taking up a causeles disquiet & discontent when as mr woodbrd[ge^t] might as easily haue more

* Sic : resolve.

† Manuscript mutilated.

truly Informed your honors that the notes Referring to himselfe have been town acts & not 3 or 4 persons & that the disquiet he speaks of hath not been without Just cause if mr Woodbridge would belene such persons as have been chosen by both parties to hear our case : & as to his salary we know noe note of the towne that dose oblige said towne to pay what he demands : for while he preached with us quietly & did not disturbe the peace of the towne he had a competent contribution for some years & gaue the towne acquitt[ance*] for the same & had not mr wodbridge obstructed his own settlement in the work of the ministry he might when settled haue had what the towne promised him on that condition but by taking up with a party & diuiding a united people he hath deprived himselfe of that proffitt & Comfortt that himselfe & the towne might haue had in & with each other soe that we hope notwithstanding the confidens mr wodbridge doth put in his honored & trusty freind constituted to speake in his behalfe yet your honors will se the Insignificacy of his pleas of being a settled minister in medford & the Rashnes of his charges against pirticular persons & the unreasonableness of his demands as to arrears & take some further steps to strenthen the hands of our pore distressed towne that soe those miservs that are in part come upon us may be Remoned & those we are in danger of as to soull & body (without speedy help) may be prenentred for which we who are your humble petitionors in behalf of said towne ever pray

PETER TETTS
STEPHEN WILLIS
JOHN WHITMORE." — *Ibid.*

Mr. Woodbridge also presented a new complaint and memorial, as follows :—

"Middlesex To the Hon^{ble} Her Majestys Justices of the Peace in their present generall Sessions of the peace in and for the Connty afores^d the 20th of March : 1705.⁶

The Humble Complaint and Memoriall of Benja : Woodbridge of Medford in the County afores^d Clerk

Sheweth

that whereas by the Vote and Agreement of the Inhabitants of the town of Medford In the Year 1701 : he was Called to be their minister and settled as such, and in pursuance of their Agreement With him Expended a great sum of money for his Better settlement with them, and whereas the s^d Town by their severall agreements and votes settled forty ponnnds money wood & strangers money pr Ann : as a salary for his maintenance : and whereas your complainant yet continues in s^d Town and as he conceives their minister Yet now so it is that severall of the Inhabitants of s^d Town are so Dissatisfied with your Complainant that they have procured s^d Town to be presented as being Destitute of a minister and would finally Dismiss your complainant without paying him the arrears of his salary and the moneys which he at their Request and on their agreem^t with him he laid out all which your petitioner thinks very grievous and unreasonable . . . whereupon your complainant humbly offers to your honors that he being once settled A minister in y^e place he cannot be Removed but by mutuell consent, and that another minister cannot be brought into s^d Town untill your complainant be removed by Law—and in the next place that the s^d Town of Medford may be obliged by this Court to pay him his arrears and reimburse him the money he has Expended on their agreem^t with him this is what your complainant now lais before this Court and prays your Honours order and Relief herein

and your Complainant shall Ever pray

BENJ : WOODBRIDGE." — *Ibid.*

After a full hearing the Court disposed of all questions between the town and Mr. Woodbridge by a declaration in the nature of a judgment, concluding with the following order :—

"The Said Court Still Continueing in their opinion that mr Woodbridge is not a Settled Minister at Medford and the Town being yet without a Settled Minister. Order that y^e Town of Medford proceed forthwith to provide them Selues of a Settled Minister qualified according to y^e directions of the Law. And to make return of their doings therein to y^e next Court of Quarter Sessions for Midd^x on penalty of being proceeded with as y^e Law directs in such Case made & provided." — *Records of the Court of Sessions, in the office of the Clerk of the Courts for Middlesex County.*

From this decision of the Court Woodbridge appealed to the Superior Court of Judicature to be held at Cambridge on the thirtieth of July. It has not been discovered that this appeal was prosecuted, or that any action was taken, or any judgment rendered, respecting the clerical irregularities of Bradstreet.

In regard to the complaint of solemnizing a marriage illegally, Woodbridge had made the following answer, in writing, at the Court held on the twelfth of March :—

"Whereas I am notified to appear at this Honnonred Court for marrying at Medford I can say no more, but that I believe, I have done my dnty, & acted therein agreeable to law, & do wonder that y^e grand inquest of Middlesex, whoever they are, understand the law no better, or would give trouble to one for acting according to it.

BENJ : WOODBRIDGE." — *Middlesex Court of Sessions : Files.*

He was served with a summons dated the sixteenth to appear on the twentieth and answer to the complaint. He appeared, accordingly, and thereupon the Court took the case under advisement until the next term, when it was again postponed, and thereafter, from term to term, to as late as December, 1706, since which no further proceedings, prior to the passage of the order which constitutes this chapter, have been discovered.

The Rev. Benjamin Wadsworth, pastor of the First Church in Boston, having preached to the congregation in the meeting-house at Medford, Woodbridge wrote him, on the eighth of April, 1706, a caustic letter charging him with disorder, and demanding satisfaction "for intruding into my pulpit and work without leave."

On the next day the following offer was made to Woodbridge, in writing :—

* Manuscript mutilated.

"To Mr Woodbridge
Reverend Sr

Whereas you have offered to the Councill, to ministers, & to the Towne, that if you were reimbursed, you would leave the Towne, & make no further disturbance among them by your preaching with them any longer: upon the conditions aforesaid, we who are the subscribers will give you your first cost of housing, land, & fences, having a satisfactory account of the same

Medford April 9th 1706/

STEPHEN HALL
STEPHEN HALL jun^r
JOHN WHITMORE

PETER TUFTS
THO: WILLIS
STEPHEN WILLIS
JONATHAN TUFTS." — *Ibid.*

Nathaniel Williams, a graduate of Harvard College, was regularly invited by the town committee to preach on the fourteenth, as a candidate. He gave the following testimony as to the treatment he received from Woodbridge: —

"An Attestatioⁿ of Nathanael Williams Jun^r — May 4. 1706.

I being Invited by the Committee for the Town of Mistick *alias* Medford to preach in their meeting house on the 14th day of April last Mr Benjamin Woodbridge oppos'd me in following manner. In the morning of said day in the Pulpit in said meeting house, he said to me that I had no business to preach there, it was his Pulpit, and forbade me to preach there, saying withal that the Committee had no power to desire me to preach: & when the forenoon worship was over he said to me that I had rudely & incivilly intruded my self into his pulpit, and therein acted unworthy of a minister of the Gospel, that if I had sett God before my eyes I should not dare to have done it, and withal charged & forbade me doing the like in the afternoon — In the afternoon just before exercise he bid me to give way to him, and sett farther in to the end of Pew, after the afternoon last prayer he seeing me going to read the Order for a fast, publicly said to me that I had no business to read that, it was his business, and he would doe it: accordingly he read it and gave the blessing before the ordinary time to do it before he satt down. After which he again told me that I had acted what was highly unbecoming a Christian & a minister of the Gospel." — *Ibid.*

At the Court of Sessions, held at Concord on the eleventh of June, a formal written complaint and address, recapitulating and enlarging upon his wrong doings, and urgently praying for relief, having been made against Woodbridge, on the eighth, by the inhabitants of Medford, and he being presented by the grand jury "for disorder on sabbath days & Espeshly upon may: 4 1706 when Mr Nathanell williams was Invited to prech at medford by ye Comitee of sd Town to prech there & for hindring the sd Town from settling a minestr among them according to Law & order of this Honra^{bl} Court,"* he appeared, and consideration of all the complaints against him was postponed to the ninth of July. On the day before the July session he sent in a written reply, embracing his reasons of appeal from the decision of the Court of Sessions at the adjourned March session; and answers to the presentments of the grand jury for violation of the marriage act; for disorderly conduct on the Sabbath; and for hindering the settlement of a minister; concluding with a request for a further continuance of the hearings upon these presentments, because of the absence of his attorney, which was granted; and the matters were adjourned over to the Court of Sessions to be held on the eleventh of September. The reply* specified six separate reasons of appeal; namely, that the court's decision was contrary to the advice of the Governor and Council in November, 1704; that the court had no authority to "unsettle" him; that such a course was inconsistent with the liberties and privileges of towns, — the Court of Sessions having authority to provide a minister only in case of the refusal or neglect of the town, etc.; that it is a wrong, to the town and the minister, to unsettle the latter, and settle another in his place, against the will of both; that he could not see how the town could comply with the court's order, "for if their inviting, & calling, & agreeing with a minister will settle him, they are settled already, if not, what can they do to provide a settled minister;" and, finally, that "some illuinded persons make use of this order, to make further disturbance amongst us, & to deprive me of such liberties, & priviledges as the gospel of christ, & ye laws of the land allow me, as a minister."

At the September term Medford's reasons for not being provided with a settled minister were accepted by the Court "for ye p'sent, under their awfull Circumstances And [the Court] further require them that they proceed wth all diligence to provide them selves off a Settled minister according to ye afores^d order & make report of their doings therein to ye next Court of Quarter Sessions to be holden for Midd^x."†

This adjudication appears not to have been reached until after the leading inhabitants of Medford had filed a long and circumstantial reply to the last answer of Woodbridge, who seems not to have attended this term, but to have filed the following papers covering a motion for another continuance: —

"Whereas I nnderstand, I am presented, by the Grand jury of Middlesex, I desire the Honnoured court, that that matter may not be called at this time, in that my Attorney, that is engaged to answer for me, is necessarily Absent, & cannot attend this court

So prays.

BENJ: WOODBRIDGE.

I am also informed of a complaint enterd ag^t me by some of ye inhabitants of Medford, under submission I conceive that doth not come under y^t cognizance of this Honnoured court. I gave an answer to it, to the Clerk from whom, I had a copy of it, if that be not satisfactory to the complainants, my desire is, that it may be heard, by his Excellency the Governour, & her Majestyes Honnoured Council, to whom that case hath been mutually referd, & where (I conceive) it is stil depending, in case the result, & advice that they gave, be not complied with.

Sept: 10: 1706.

BENJ: WOODBRIDGE." — *Ibid.*

* Middlesex Court of Sessions: Files.

† Records of the Court of Sessions, in the office of the Clerk of the Courts for Middlesex County.

Still counting on the readiness of the town to make almost any concession to get rid of him Woodbridge presented to the inhabitants, at their town meeting on the fourteenth of October, the following proposal for his temporary withdrawal:—

“To the inhabitants of y^e town of Medford. At their meeting. Oct: 14: 1706—

Inasmuch as I have been by y^e unanimous consent of the town of Medford called to, & placed in the work & office of y^e ministry in this town, & to this people, & am thereby their rightful minister, And have served them faithfully, according to my ability, in the work of y^e ministry in a constant way, nine years compleat, on y^e 18th day of this instant October. Yet now by reason of y^e strong opposition ag^t me, & my ministry here; & y^e obstacles, & discouragements cast in my way by some. I do propose & declare to y^e town of Medford as followes. That from the 18th day of this instant October until six months shal be fully compleated; I do lay down, or forbear y^e exercise of my ministry in this place, so as that y^e place is for that time vacant, & may be supplied by whom y^e town se cause. Yet I would have it so to be understood, that y^e town forthwith pay my arrears, that are due according to agreement, for my labour & service in the ministry already done. And moreover, I do further propose, & declare y^t in case y^e town shal at any time, in this six months space, agree upon an other person, to be their constant, & fixed minister, & reimburse me, & take deeds of y^e house (& land here in Medford) that I dwell in, & was built for y^e towns sake, at their desire, to serve them, as hath been formerly proposed which being done I shal then with y^e leave, & consent of y^e town resigne up y^e work, & place wholly to y^e minister so chosen, & agreed upon: & desire that y^e relation betwixt me, & this people may be dissolved by a mutual, & loving discharge of each other. If otherwise (God sparing life) Our former Agreements to stand valid, & in ful force, & that there be no further contention against me.

Oct: 10: 1706.

BENJ: WOODBRIDGE
minister of y^e Gospel at Medford.

I desire this may be entered on y^e town records.” — *Ibid.*

This was clearly intended as a bait to secure a full settlement of his claim for arrears and a liberal allowance for his real estate, or, failing the latter, to make sure of the former, and to be allowed to continue in his office, with its emoluments and the enjoyment of his property, without further controversy.

Before any further proceedings were had in relation to the troubles at Medford the Legislature passed the act of November 14, 1706, making more stringent provisions for enforcing the laws for the maintenance of the ministry, and requiring the Court of Sessions, if their orders on any town to settle a minister, or to fulfil his contracts and agreements with its minister, and to make suitable provision for his support, are evaded or prove ineffectual, to report their proceedings to the General Court.*

On the sixth of December the town passed a vote denying that “The Town do Esteem The votes past march 28th 1698 granting to m^r woodbridge Forty pounds in mo^{ny} Strangers money and fifteen cord of wood &c: and That vote past y^e 28th of July 1702 referring to raise money or make a rate for m^r woodbridges Sallery or any other vote or votes in the Town book of the Like Circumstances Layes them under obligation or obligeth them to pay m^r woodbridge his demands referring to areares namely 122£: 13^s and 9^d Express in his writing to the Selectmen bearing date octob^r 18th: 1706.”†

Upon this Woodbridge again complained to the Court of Sessions as follows:—

“To the Honourred Court of Sessions: for the county of Middlesex, sitting at Charles-town. Decemb: 10. 1706.

Whereas I have been called to the work of the ministry in Medford, by the vote & unanimous consent of the people there, & have served them faithfully according to my ability in the work of the ministry nine year compleat, in a constant way, which terminated on the 18th day of Oct: last past, at which time, I did lay down the exercise of my ministry there, & layd the place vacant for six months, in order to their providing them^s with a settled minister, according to the desire advice or order of this Honourred Court I humbly desire this Honourred Court would se that my arrears may be speedily paid, according as the law directs. I being in want. So prayes

Your humble supplicant & petitioner

BENJ: WOODBRIDGE.” — *Ibid.*

To this petition he appended an account of arrears, summarized as follows:—

“There remains due from the town of Medford according to my computation, errors excepted, in reference to y ^e 4 year, & 1 months above-said	122 - 13 = 9.
I do also signifye that there is put into my hands, by particular inhabitants of y ^e town of Medford to be discounted with them when they reckon, in reference to the 2 last year & 4 months, according to my computation in money & wood	40: 14: 10
errors excepted —	
Oct: 18: 1706.	
& since y ^e said date	1 - 1 = 6
B. W.”	

— *Ibid.*

This account was accompanied by the following letter addressed to the selectmen:—

“Gentlemen

My want puts me upon a speedy demanding of my arrears for the work of y^e ministry already done here in Medford according to Agreement. Neither do I know any

* Province Laws, 1706-7, chapter 9, § 2.

† Middlesex Court of Sessions: Files.

honour or advantage it will be either to you, or the town to delay it. I pray therefore that you would speedily, & forthwith se it paid — & you will oblige your loving friend.

BENJ: WOODBRIDGE." — *Ibid.*

The case was put over to the Court held at Charlestown on the fourteenth of January, when, Woodbridge not appearing, it was dismissed.

Another council followed, of which the result is hereunder given; viz., —

"The Result of a Council of four Churches met at Meadford Jan^y 28th 170⁶/7 at y^e request of y^e Inhabitants of s^d Meadford by their Letters missive y^e 2^d of said Jan^y In order unto y^e determining whether all has been done y^t y^e Council of Churches at said Meadford, Convened, & held on y^e 10th of July 1705, directed & expected to be done for y^e removal of Dissatisfactions in said Town: & y^e declaring w^t may appear further necessary to be done, y^t y^e work of y^e Gospel may be more comfortably carried on There.

After solemn calling upon God in Prayer, for his help, & guidance & hearing of much from sundry of y^e Inhabitants of said Town, & also of such answers as Mr Woodbridge was pleased to make wth y^e objections & allegations of said Inhabitants were related unto him; We declare as followeth

1 That it doth not appear to us y^t y^e said Rev^d Mr Woodbridge hath made particular acknowledgments of y^e faults y^t he was blamed for, & advized to make confession of by y^e Council of y^e 10th of July 1705, viz^t [1] Of his reflecting upon y^e 4 Rev^d Ministers as Prejudiced persons, who gave advice upon their hearing of some matters in difference between s^d Mr Woodbridge & y^e workmen about his house. [2] of his reflecting on y^e said workmen who built his house, as if they were troubled in mind for taking y^e money adjudged unto them by y^e said ministers [3] of his charging y^e said workmen as owing him Thirty pounds. since y^e judgment & advice of y^e s^d ministers [4] of the unadvised & irregular steps he took towards gathering of a church.

2 As to what appears further necessary to be done y^t y^e work of y^e Gospel may be more comfortably carried on in this place by y^e Rev^d Mr Woodbridge; We judge it necessary y^t he make a clear, & full acknowledgmt to y^e satisfaction of y^e Parties aggrieved of y^e particulars above mentioned, as also w^t matter of just offence has occurred since, particularly his abusive, & contemptuous carriage towards two Rev^d Ministers who at y^e request of y^e Inhabitants came to preach at Meadford being advized thereunto by several Rev^d Elders; & his persisting to charge y^e workmen wth injustice; And also his putting by y^e fast w^{ch} had been appointed by y^e Town; w^{ch} things appear by divers papers (most of y^m from himself) now in our hands. As also y^t y^e Inhabitants of Meadford do confesse & acknowledge their heatt, & disorders in expressions & behaviour (during these contentions) each party to y^e other. And particularly also y^t such as have appeared opposite to Mr Woodbridge do acknowledge all their indecent expressions & behaviour y^t may have passed towards him.

3. If these things cannot be complied wth freely by all persons we se no other way but y^t they part Lovingly according to y^e advice of y^e Council of July y^e 10th 1705. & y^t y^e Town proceed wth Unanimity & Vigour to endeavour their settlement wth Another according to y^e Orders of divers Courts at Charlestown, & Cambridge

THO BRIDGE

Moderator

In the behalfe, & wth the unanimous consent of the Council,
Also it was voted by y^e Council y^t this Council Adjourn unto the last Thursday in April next or sooner if need be to sit at Boston at y^e house of y^e Rev^d Moderator if they shall by y^e s^d moderator be notified thereunto." — *Ibid.*

The council met again, and the proceedings of this and of the next subsequent adjourned meeting were as follows: —

"At a Council of 4 Churches who first met at Meadford Jan: 28. 170⁵ & met again at Boston by adjournment and Notification from the Reverend Moderator on the 4th of April 1707.

After Calling upon God in the Name of Christ for His Direction and Hearing of Such of both Parties of the Town of Meadford, and Such others as Appeared before us; The Reverend m^r Woodbridge not appearing, but Sundry Persons informing Us that the said m^r woodbridge had some Proposals in writing to make unto us which were sent but Came not to Us, We have Agreed that this Council be Adjourned & it is Adjourned unto the first Thursday in June Next to Meet at three of the Clock in y^e afternoon at the house of the Reverend Moderator & do Advize that He y^e Said m^r Woodbridge forbear Preaching at said Meadford until the said Day & that others be Improved in the work of the Ministry among Them, forasmuch as the said m^r woodbridge hath not Complied with our Advices of the 28th of January Last.

THO BRIDGE

Moderator

wth y^e consent of y^e Council

For m^r Willis." — *Ibid.*

"By the Council that met at Meadford January 28: 1706/7. and continued by Adjournments to this 5th of June 1707, and now Opened with Prayer, It is declared as of Judgment That (forasmuch as the Rev^d m^r Woodbridge hath not yet made His Confessions so particular as to Answer y^e Advice of the Council of Churches of July y^e 10th 1705, and of the first Session of this present Council) If Mr woodbridge Sign the Confession hereunto annexed and deliver it to our Reverend Moderator as His Confession Such His Act may be Sufficient to make His way Clear unto His Preaching for half a Year in Meadford, upon probation, that It may Appear whether there may be any Likelihood of healing the Contentions there. And we advize the inhabitants of Medford them to attend His Ministry accordingly. But in Case m^r woodbridge Sign not the Said Confession Or some Other that shall satisfy the Parties aggrieved in Meadford within a moneth from this Present Time, We advize That According to y^e Advice of the Council of July y^e 10th, 1705, m^r wood-

bridge & the People of Medford do part as Quietly as they Can. And We pray the God of Peace, through our Lord Jesus X^t to Give a Sanctified Peace unto the Town of Medford. And this Council is Adjourned to the first Thursday in March Next: Or sooner to any Time that shall be Appointed by the Reverend Moderator & Notified to Us.

Agreed to by the Council, June 5th 1707.

THO BRIDGE
Moderator

A Copie of the [Confes?]* sion annexed

I am Sensible and doe acknowledge (1) That while a misunderstanding and Difference remained between me and Sundry Principal Persons in the Town of Medford that other wise would have Joynd in Gathering of a Church, it was not prudent to Try to Gather a Church, My Way thereunto being not so Plain & fair & Easy by reason of their Dissatisfaction with my Self as it should have been

2^{dy} That the four Ministers who Gave advice upon hearing of some Matters in Difference between the workmen Employd in Building My House & Me were Reverend & Prudent Persons and I ought not to have reflected upon Them as if they were Prejudiced.

3. That I ought not to have Reflected upon the aforesaid Workmen as if that they were troubled in mind for Taking the Mony adjudged unto them by the said Ministers. 4^{dy}. After I had Paid the workmen and taken their Receipt or Discharge; According to the advice of the said Ministers, I should have held my Peace & not have Charged Them with owing Me Thirty Pounds: I am sorry & beg pardon for my failings in all the above-mentioned Particulars and for any other thing wherein I have erred, before or since, and resolve to be more carefull for the time to come, by the help of the Lord: I solemnly Professe y^t I heartily Desire the Peace & Good of Medford, and will do my utmost to put a Christian end to all Contentions there; and will Labour to Carry it friendly and becomingly to Them and Theirs, notwithstanding all Past Differences that have been between Us: And the Lord Give Pardon & Peace & humility and meeknesse and Patience and all needfull wisdom & Prudence to Me & Them.

Agreed to by the Council: June 5th 1707.

THO BRIDGE
Moderator." — *Ibid.*

To the foregoing form of confession proposed by the council Mr. Woodbridge declined to agree, but substituted an answer, containing, with some expressions of a willingness to be pardoned for wrong doing if he had been guilty, denials, excuses, recriminations, and evasions, in his customary style. This was, of course, wholly unacceptable, and therefore, at the next September term, the long-suffering inhabitants once more applied to the Court of Sessions, exhibiting this latest effusion of their recalcitrant preacher, together with the following petition:—

"To the Honored Court of the General seshons of the peace for the Connty of Midds^x sitting at Cambridge Septem the 9th 1707

the petition & humble adrese of us who are the subscribers some of the Inhabitants of the Towne of Medford

Sheweth

whereas the Honored Court of the seshons of the peace hane at severall times ordered the towne of Medford to procede forthwith to provide themselves of a settled minister qualified according to the Directions of the law which we have been laboring for & Cannot yet obtain: & since we received the last order of the Honored Court of the Seshons of the peace sitting at Cambridge referring to mr wodbridge & the towne of medford as aforesaid we were aduiced to call an ecclasticall counceill once more to Resolue some things that were thought proper to be Resolued by them before mr Wodbridge was wholly laid aside from preaching in medford & we being still willing to doe any thing that might be most likely to obtain a peaceable setelment amongst us we Inuited ye former Counceill to come again amongst us who complied with our motion & hane given there aduice at thre severall mettings but mr Wodbridge not Complying with there aduice we Remain still without a settled minister & we are not like to hane peace nor order amongst us while mr Wodbridge will preach in medford although he hath not complied with sd counceils aduice which would hane made way there for had he attended y^e same soe that all other means proving Ineffectuall we know not what step next to take butt again to advise our selfs to this Honored Court for some help & releiff in this matter that the obstructions that lye in our way may be Remoued that soe the towne may procede to provide themselves with a settled minister qualified according to the directions of the law & for your help & Relciff herin we who are your humble petitioners & supplicants ener pray

Medford Septem 8: 1707

THO WILLIS in	PETER SECCOMB	THO WILLIS
STEPHEN HALL	FRANSIS WHITMORE	STEPHEN WILLIS
JOHN WHITMORE Jun ^r	JONATHAN TUFTS	JOHN WHITMORE
ELAZAR WIER	STEPHEN HALL in ^r	JOHN BRADSHAW
	BENJAMIN PERCE	PETER TUFTS." — <i>Ibid.</i>

The Court forthwith ordered Mr. Woodbridge to be notified to appear at its adjourned session at Charlestown, on the last Tuesday of September, "to make Ans^r to w^t may be objected referring to said Paper y^t they look at as such an Impediment as aforesd."†

Woodbridge appeared at the time appointed, and defiantly presented the following querulous and evasive answer:—

"To the Honnoured Court of General Sessions of the peace for y^e county of Middlesex sitting at Charlestown this 30th day of Sept: 1707.

Whereas I am cited, or notified to appear at this court, to make answer to what may be objected referring to a paper which some look upon to be an impediment or hinderance to y^e town of Medfords providing themselves with a settled minister. I know of no such

* Manuscript mutilated.

† Records of the Court of Sessions, in the office of the Clerk of the Courts for Middlesex County.

paper. If it be meant of a paper that I delivered to the Reverend Moderator of ye council, on June: 17: 1707. (though the scope of that is contrary to what is here supposed.) Under submission, it seems hard to me, that I must be cited to answer at this Board, that council being yet in being, & not having yet (as I know of) given their sense of it, whether it be acceptable, or not. And moreover if there be any harm in it, or thought to be, I look upon it, that I am responsible to a higher Board, viz his Excellency ye Governour, & her majesties Honourable Council, to whom our affairs at Medford have been mutually referred, & before whom they have been heard, & if I do not make out every article of that paper to be true, I shal willingly fall under it.

Furthermore I have seen the complaint that sundry of ye inhabitants of Medford viz. 14 put into this Honourable Court sitting at Cambridge. Sept: 9: 1707. In their complaint though it be dark & confused yet according to my understanding, they complaine against me in 3 things. 1st As if I were the hinderance of their providing themselves with a settled minister, & this is to pnt, *non causa pro causa*. It is notoriously known in town, & abroad that the hinderance is, in that they wil not according to the advice of ye council, pay me what is my just due, that we may lovingly & quietly part, & discharge each other. 2^{ds} They seem to complain as if I would not comply with the advice of the council, *cujus contrarium est verum*, I have often told them that it is much to my dammage, & I suffer by want of my money. And am now willing at their desire to part according to ye Councils advice. 3^{ds}. That I stil preach at Medford. It seems to me very unreasonable that when I had ceased the exercise of my ministry here, for six months, for this end, that they might pay me, & that we might lovingly part, & that they might provide themselves with an other, & they would do nothing in it, & yet complaine. I wil only adde that I am preparing, an instrument, or writing for further cessation, for a convenient time of tryal, to se what they wil now doe, which shal be speedily given to them. And I would humbly pray this Honourable court, that this may be taken as a ful answer to their causelesso complaint against me. And I shal always remaine

yours in al service, & duty whilst I am

Medford Sept: 30: 1707.

BENJ: WOODBRIDGE." — *Ibid*.

The Court, evidently glad of the opportunity which the new law afforded to clear its docket of this perplexing and tiresome controversy, passed the following order:—

"Midd^x ss. Charlestowne Septemb^r: 30th: 1707: At ye adjournmt of ye Court of Sessions of the peace from ye 9th, Instant

Whereas the Town of Medford notwithstanding all the orders of the Several Courts of Sessions of the peace for this County, for their providing them Selnes of a Settled orthodox minister as the Law directs, are yet by Reason of theire non observance of said orders of ye Courts aforesaid, in a very disordered posture and with out a Settled minister qualified according to Law and likely so to Continue, not with standing all Endeavors of the Said Courts of Sessions of ye peace. This Court See Cause and order that ye proceedings of Said Courts be represented and Reported unto ye next Sessions of ye General Assembly of this Province by ye Clerk of ye peace for said County." — *Records of the Court of Sessions, in the office of the Clerk of the Courts for Middlesex County.*

From the twenty-ninth of October, when the third session of the General Court began, until the twenty-eighth of November nothing appears in the files or on record indicating that the order of the Court of Sessions had been brought to the notice of either branch of the Assembly.

At length the difficulties in Medford came up for consideration, in the House, upon the petition of Mr. Woodbridge. The petition itself has not been found, but the subsequent proceedings of the Legislature upon the subject as thus introduced are narrated in the notes to chapters 119 and 127 of the resolves of 1708-9.

Chap. 86. This chapter is from council records, vol. VIII., p. 341, and archives, vol. 40, p. 908.

The following is the petition mentioned in the preamble to this chapter:—

"To His Excellency Joseph Dudley Esq^r Cap^t General and Governour in Chief in and over her Majesties. Province of the Massachusetts-Bay. And To the Hon^{ble} her Majties Council, and House of Representatives now in General Court assembled in and for the said Province. Novem^r: 26th 1707./—

The Humble Petition of William Kouse Mariner

Sheweth

That your Petitioner has been a Prisoner in the Goal in Boston about Eighteen months, where he still continues under great Indisposition of Body, insomuch That if he should be confin'd there another Winter it would very much Endanger his Life, as it has already ruined his Estate, having been so long upon great Expences, without being able to do any thing towards the Support of himself, and family, and seeing that yo^r poor Petitioners being detain'd longer in Prison, can be of no service to her Majty and his Enlargement no detrim^t either to her Majesty or this Country but may be a means to Save your Petitioner from Apparent Death, & his poor Innocent wife and Children from Ruine,

Your Petitioner therefore humbly prays the favour of yo^r Excellency and Honor That you would please to take his Deporable Condition into your pious and Charitable Consideration And that you would please to grant him the Liberty to go to his own House, he giving security to return to Prison again as soon as he shall be required so to do by this Hon^{ble} Court, if her Majty doth not Remitt the fine Laid on him

And yo^r Petitioner (as in duty bound) shall ever pray &c

Nov^r: 28: 1707

W^m Rous." — *Mass.*

Archives, vol. 40, p. 907.

Upon this petition the House voted, on the twenty-eighth, that the prayer thereof be granted, and sent their vote to the Council, for concurrence. This was read in Council on the same day, and on the twenty-ninth the Board passed the second and third paragraphs of this chapter, in concurrence with the House.

On the first of December the Council voted to rescind the vote which constitutes this chapter, and passed chapter 87, *post*, as a substitute. In this the House concurred, and the substitute was consented to by the Governor.

For an account of Rous's offence and his prosecution, see the notes to private acts, numbers nineteen and twenty-three.

Chap. 87. This chapter is from archives, vol. 40, p. 908. It is recorded in council records, vol. VIII., p. 342.

See note to chapter 86, *ante*.

Chap. 88. This chapter is from council records, vol. VIII., p. 342, and archives, vol. 113, p. 124.

The following is the petition mentioned in the preamble to this chapter:—

“To his Excy Joseph Dudley Esqr Cap^t Gen^l & Governour in Cheife in and Over her Majty^s Province of the Mattachusetts Bay in New England & Vice Admirall of the same. And To the Honorable the Councill and Honrd Representatives of the said Province now in the Great and Generall Court Assembled — October 1707.

The Humble Petition of severall of the Assessors of the Town of Boston for this present year—1707.—

Whereas There was a Law Establish'd in this Province A^o 1699. wherein it is Enacted that all County and Town Rates & Assessm^{ts} shall be Apportion'd according to the Rule that shall be prescribed and sett by the Generall Assembly for the Assessing of the Publique Taxes the same year as Appears by our Law book Page. 172. and the Inconveniency thereof as to the Town of Boston being Represented to and Layd before the Gen^l Court. they saw Cause to Repeal the said act as Appeares Pages 216. & 294. whereby they are Referred to former Laws. & there being no other then what is mentioned in Page 24. where it is Enacted that to all town Charges Each Particuler Person shall be Assessed According to his known Ability and Estate—

And whereas there are in the Town of Boston Sundry Houses Lands &c Amounting to some Thousands of Pounds Annuall Rent the Own^{rs} whereof doe not Dwell in the Town and so not Lyable to be Rated by the s^d Law in Page. 24. made A^o 1692. And it being highly Reasonable that they should pay their proportion to the Town Charges as well as other Houses and Lands &c. the Own^{rs} whereof are Inhabitants in the Town And the said Assessors being of Different Apprehensions as to the Import of the Late Resolve of the Gen^l Court in their Last Sessions Dat^d the 30th of Aug^o 1707. whether it have the force of a Law Sufficient to Oblige the Landlord to Reimburss the Tenant what the House Land &c he Occupys is sett at in the Assessment

Your Pet^{rs} Therefore Humbly pray that you would take the same into y^{or} Serious Consideration And pass An Act that the Landlord Shall Reimburss the Tennant so much as the Estate he Occupys is Assessed at, That we may proceed upon making the Town Rate for the said Town which hath for the afores^d Reasons (to the Damage of the Town) been to this time Deferred & y^{or} Pet^{rs} Shall &c—

RICH^d DRAPER
EDW^d MARTYN

JAMES BARNES
THOMAS WAKER.”—*Mass.*

Archives, vol. 113, p. 423.

This petition was read, first, in the Council, on the fifth of November, and again on the sixth. On the second of December the Council passed the following vote and sent it to the House, for concurrence:—

“The Question moved in the within Petition was fully Resolved by this Court at their Session in August past; And the Assessors are Directed to observe the same.—

dele lineata { *The neglect whereof is a fault and Deserves to be Animadverted on. No further Answer thereto being necessary.*” — *Ibid.*, p. 424.

On the second, after several changes proposed, evidently partly by each branch, the vote was brought to the form in which it appears in the printed chapter, and thus it was concurred in, on the third, by the House, and consented to by the Governor.

See chapter 29, *ante*, and note.

Chap. 89. This chapter is from council records, vol. VIII., p. 343. It is preserved in archives, vol. 17, p. 181.

The following is the petition mentioned in the preamble to this chapter:—

“To His Excellency Joseph Dudley Esqr Cap^t Gen^l and Governour in Cheife &c and To y^e Honble her Majties Councill and the Honrd Representatives in Generall Court Assembled Novemb^r 25th 1707 —

The Humble Petition of Mary Woodberry Relict Widow of Andrew Woodberry Late of Salem Dece^d
Sheweth—

That Whereas Y^{or} Petitioners Husband afores^d Dyed about Twenty five Years Since and left a Small Estate Viz^t a Dwelling house wth about three Quart^{rs} of an Acre of Land wth Some few moveables and Y^{or} Petitioner hanceling Lined Ever since a Desolate Widow has been forced for her owne Necessity and y^e Relief of her Children to Expend those few Moveables and Being now growne very old and Decayed and not able to Doe any thing for a Livelyhood whereby Y^{or} Petitioner is brought to Extreem Want and Poverty and Like to suffer much unless she may be Relieved by y^e Sail of a part of y^e Said Land—

Wherefore Y^{or} Petitioner to gether wth her Children Viz^t Eliz^a More and Hannah Cox Pray that this Honrd Court would Impower Y^{or} Petition^{rs} or some Other p^{rs}on or p^{rs}ons

to Sell y^e Said House and Land or at least one halfe of y^e land for y^e Releif of Yor Petitioner in her great Distres //

And Yor Petition^{rs} as in Duty Bound shall always Pray &c—

Nov^r 26: 1707.

the marke of
MARY M WOODBERRY
her
ELIZABETH 23 MORE
marke
her
HANAH | COX. — Mass.
marke

Archives, vol. 17, p. 180.

This petition was read in the House on the twenty-sixth, when an order exactly agreeing with the order as printed in this chapter, as far as the beginning of the first proviso, was passed and sent to the Council, for concurrence. On the twenty-eighth the Council voted not to concur in the order as thus drawn but substituted the following, and sent it to the House, for concurrence:—

“Ordered That the Petitioner cause her Children to be Served with a Copy of this Petition; And that there be a Hearing thereupon before this Court on the first friday of the next Session.” — *Ibid.*, p. 181.

On the third of December, however, “at a motion from the representatives,” the Council, “on consideration and revising the above,” voted to concur in the order passed by the House, with the provisos added, and on the next day the House “read and agreed” to it, and it was consented to by the Governor.

Chap. 90. This chapter is from archives, vol. 58, p. 262. It is recorded in council records, vol. VIII., p. 344.

Vice-President Willard, the manner of whose succession to the headship of Harvard College is shown in chapter 69 of the resolves of 1701-2, and the notes thereto, was taken suddenly ill, August 11, 1707, while on an official visit to the College. He was so prostrated that he was obliged to return to Boston “before Prayer-Time.” His malady rapidly increased, so that, by the fourteenth, Judge Sewall * reported to the Governor and Council “that Mr. Willard was not capable of doing the College work, another year: He Thank’d them for their Acceptance of his service and Reward;” whereupon Wait Winthrop and William Browne were ordered “to visit” him, “and Thank him for his good service the six years past.” This order being sent to the representatives for their concurrence, and “to name persons to join in the Thanks and Condolence,” the deputies concurred, and nominated “the Rever’d Mr. Nehemiah Hobart to officiat in the mean time till Oct^r next. This, [adds Sewall], the Gov^r and Council did not accept, and so nothing was done.” Willard rallied for a time, but he had a relapse, which ended fatally in about two hours, on Friday, the twelfth of September, O. S.†

Sewall thus sadly pictures the closing scene in the life of his friend and pastor, and describes the interment of his remains:—

“7: 12. [1707.] Mehetael Thurston tells me Mr. Willard was taken very sick. I hop’d it might go off, and went to Dinner; when I came there, Mr. Pemberton was at Prayer, near concluding, a pretty many in the Chamber. After Prayer, many went out, I staid and sat down; and in a few minutes saw my dear Pastor Expire: it was a little after Two, just about two hours from his being taken. It was very surprising: The Doctors were in another room Consulting what to doe. He administred the Lord’s Supper, and Baptiz’d a child last Lord’s Day: Did it with suitable voice, Affection, Fluency. Did not preach: 7: 11th went to Lecture and heard Mr. Pierpont. At even seem’d much better than had been lately. Tis thought cutting his finger, might bring on this tumultuous passion that carried him away. There was a dolefull cry in the house. *Feria secunda*, 7: 15th Mr. Willard is laid by his Tntor in my Tomb, till a new one can be made. Bearers, Dr. Mather, Mr. Allen; Mr. Tho. Bridge. Mr. C. Mather; Mr. Wadsworth. Mr. Colman. Fellows and students of the College went before. Mr. Pemberton Led Madam Willard. . . .” — *Diary, vol. II., p. 194.*

On the twenty-eighth of October, the fellows of the College met, and chose Mr. John Leverett president. He received eight votes, Increase Mather three, and Cotton Mather and William Brattle of Cambridge, one each.

This election was communicated, on the same day, to the Governor, in an address, closing with a prayer that their choice might be accepted by him, and Leverett’s name presented to the Legislature for their approval and their vote for “his honorable subsistence.” The address was as follows:—

“To his Excellency Joseph Dndley Esq; Captain Generall & Govern^r in Chief in & over her Majty^s Province of y^e Massachusetts Bay &c

The humble Address of the Fellows of Harvard College in Cambridge—
Sheweth,

That We have according to y^e Rules of o^r house Unanimously Declared o^r desires that y^e future Heads of this College may be Resident, & as Resident Presidents were antiently wont to Do, may Govern y^e Students & serve them with Divinity Expositions &c; And in pursuance thereof We have Chosen y^e Honble John Leverett Esq; Our next President, of whom we have good Confidence that he will (when Accepted & Subsisted) lay aside & decline all Interfering Offices & Employments, & Devote himself to s^d Work, & by y^e Divine help, be a very Able & faithfull Instrument to promote y^e Holy Religion here

* *Diary, vol. II., p. 193.*

† “On Fryday the 12th. Instant Dyed here in the 68 year of his Age, the very Worthy and Reverend Mr. SAMUEL WILLARD, Pastor of the South Church, and Vice President of *Harvard College in Cambridge*, unto the Just Grief, not only of the Church and Town, but of all *New-England*.” — *Boston News-Letter, No. 178. September 8 to 15, 1707.*

practised & Established, by Instructing & fitting for or pulpits & Churches, & other publick & usefull Services such as shall in this School of ye prophets be Committed to his Care & Charge —

We Recommend y^e s^d Honorable person as or president to your Excellencies favourable Acceptation, & pray that you would present him to ye Hon^{ble} Generall Assembly & move for his Honourable Subsistence, if y^{or} Excellency thinks fit. So we rest

Your Excellencies Most humble servants

Harvard College in Cambridg.

JAMES ALLEN Senior fellow

Octobr. 28th. 1707 —

In the name &

Consent of the Rest." — *Mass. Archives, vol. 58, p. 253.*

The Governor submitted this address to the Council on the eleventh of November, together with another address, in five separate copies, differently signed, comprising, in all, the signatures of thirty-nine ministers, as follows: —

"May it please your Excellency /

We have lately with great Joy understood the great & Early Care that our Brethren who have the present Care & oversight of the Colledge at Cambridge have taken in Supplying the place of the late Reverend and learned Mr Samuel Willard Deceased, by their Unanimous Choice of Mr John Leverett, a worthy member of that Society to be President of that Colledge. And we humbly take the freedom to acquaint and assure your Excellency That no person whatsoever could be more acceptable to us in that Station. Your Excellency personally knows Mr Leverett So well, that we shall say the less of him, however we Cannot but give this Testimony of our great affection to, and Esteem of him. That we are abundantly Satisfy'd and assur'd of his Religion Learning and other Excellent Accomplishments for that Eminent service, a long Experience of which we had while he was the senior fellow of that House, for that under the wise and faithful Government of him and the Reverend Mr Brattle of Cambridge the greatest part of the now Rising Ministry in New England were happily Educated; And we hope and promise ourselves through the Blessing of the God of our fathers, to see Religion, and Learning thrive and flourish in that Society under Mr Leverett's wise Conduct and Influence as much as ever yet it hath done.

We accept with all thankfulness your Excellencie's great, sincere and Constant Care, and Respect to the Colledge, and doubt not but you will now readily give an Instance of it, not only in Approving the Choice made, but also in prooving, and Encouraging as much as in you lies, an honourable support and Maintenance (for the president) the Granting of which we doubt not but that our Great and General Court will cheerfully and readily take Effectually Care of. Your Excellency will Easily Excuse the freedom we take when you Consider how very near and dear both To your self and us the Interest of that Society is, and that the support and Encouragement of Religion & Learning in the Colledge is of the last Importance to the Church and state of New England. We shall add no more but pray for the Divine Blessing on your Excellencies Person, family, and happy Government, and subscribe ourselves

Your Excellencies sincere and humble servants.

SAMUEL DANFORTH [Taunton]
JNO SPARRHAWK [Bristol]
THOMAS GREENWOOD [Rehoboth]
SAMUEL MAN [Wrentham]
JOSEPH BAXTER. [Medfield]
SAMUEL CHEEVER [Marblehead]
NICHOLAS NOYES. [Salem]
JEL SHEPARD [Lynn]
JNO Wise [Ipswich]
JOSEPH CAPEN [Topsfield]
THOMAS BERNARD [Andover]
THOS BLOWERS [Beverly]
JOHN SWIFT — [Frammingham]
ROBERT BRECK. [Marlborough]
ISRAEL LORING: [Sudbury]
SAMUEL WHITING [Billerica]
JOSEPH ESTABROOK [Concord]
JOHN HANCOCK [Cambridge]
JOHN FOX [Woburn]

SAMUEL BELCHER } Newbury
CHRISTOPHER TOPPAN }
JOSIAH DWIGHT. Woodstock.
BENJA COLMAN. Boston.
CALEB CUSHING. Salisbury
ELIPHALET ADAMS. [Boston]
JABEZ FITCH. [Ipswich]
JOHN ROGERS. Ipswich
EDWARD PAYSON Rowley
BENJAMIN ROLFE Haver
THOMAS WELLS Almsbury.
MOSES HALE Newbury Falls
JOSEPH BELCHER [Dedham]
MOSES FISKE [Braintree]
JOHN NORTON. [Hingham]
NATHANAEL EELLS [Scituate]
NATHANIEL PITCHER [Scituate]
JAMES: GARDNER [Marshfield]
JOHN ROBINSON [Duxbury]
EPHRAIM LITTLE [Ilymouth]. — *Ibid.*,

pp. 254-260.

The Council forthwith passed the following vote, and sent it to the representatives, for concurrence: —

"Voted That the said Election be Accepted, And that m^r Leverett be Desired and Impowred to take the Care and Govern^t of the Colledge, as President, accordingly." — *Ibid.*, p. 261.

This vote was read in the House on the twelfth, and again on the twenty-fifth and twenty-eighth, on which last day it was nonconcurrent. On the twenty-ninth the representatives sent a message, in writing, to the Council, by Captain Phipps, "moving them to Joine, with this House, in chusing a Suitable person, to Take Care of the Colledge, until the Session of this Court in May next."* This motion was read at the Board that day and again on the second of December when the Council sent down a message asking for a conference, which was agreed to and the conference was held, forthwith, in the council chamber.

On the third of December the Council voted to reject the proposal of the House to proceed to a joint vote for a temporary filling of the vacancy.

* *Mass. Archives, vol. 58, p. 262.*

The purpose of the vote of July, 1700, referred to in this chapter, was to offer an exceptional inducement to Increase Mather to accept the presidency of Harvard College, with the conditions annexed, but failing of its purpose it remained a dead letter on the record, since Willard, Mather's successor, held only the office of vice-president, with inferior pay and the liberty of non-residence; but it was apprehended that if Leverett were chosen president, unconditionally, he would be entitled to the liberal salary proffered to Mather.

Leverett was one of the Governor's favorites, and Dudley's enemies would, therefore, object to granting to the new president what they had been willing to give to Mather. Undoubtedly Cotton Mather, whose rage was unbounded at finding that he was again to be denied the fondest object of his ambition, used all his influence with the anti-Dudley party to secure the passage of this declaratory resolve and prevailed upon his father to labor for the same end. These efforts Dudley could not withstand in view of the existing state of the treasury and the expensive public enterprises on foot.

Besides the opposition of the Mathers, which was yet considerable notwithstanding the rebuffs they had recently received, Leverett had incurred no little hostility from the soldiers lately returned from Port Royal, as well as from the public, for his supposed share of responsibility for the failure of the late disastrous attempt to conquer Acadia; and this state of feeling was availed of by his opponents to effect a reduction of the president's salary, thus rendering the office less desirable.

On the second of December, therefore, the resolve which constitutes this chapter was passed by the representatives, and sent up for concurrence. While before the Board, there being a prospect of the establishment* by the House of a satisfactory salary for the president, in view of the agreement of the Council to the insertion of a clause requiring Leverett to devote himself entirely to the duties of his office, the resolve was concurred in, and consented to by the Governor, on the fourth.

Chap. 91. This chapter is from council records, vol. VIII., p. 345, and archives, vol. 71, p. 341.

The following is the petition mentioned in the preamble to this chapter:—

"To his Excellency Joseph Dudly Esqr Capt Gen^l & Gov^r of the province of y^e Massachusetts Bay in New England &c: & y^e Hon^{ble} y^e Council & Representatives In Gen^l Court assembled May y^e 28th 1707.

The humble petition of Robert Rogers of Rowley humbly sheweth.

That whereas y^e s^d Robert was Comanded out Into her Majesties service July 1706 vnder y^e Conduct of Capt John pearson being at Dunstable when y^e Indians beset y^e Garrison: I was wounded by a spear Run Into my breast, & by Reason of s^d wound I lost much blood, I stayed under a Chirurgian about fourteen dayes & being soe far Recovered I got home to my family; yet not soe Cured but y^t I was forced to Imprime Doctor Bennet, who healed my wound & supplied me wth things proper for y^e Repair of my weakness I was vnder by y^e Loss of much blood: soe y^t for aboue a moneths time after I got home I was not able to Labour. May it please yo^r Hon^{rs} y^e Law haneing made some prouision in such Case, y^t any maimed or wounded in her Majesties service, shall be Relieued out of y^e publick Treasury.

y^e Humble petitioner prays yo^r Hon^{rs} serious Consideration, (tho not for a yearly stipend) yet that such Grant may be made by this Court as may in some measure Compensate, my charge & Cost to y^e Doctor Bennet & my Loss of about six weeks time, before that I Could Labor at my Caleing; tho, I Cannot expect for my after labouring under great Infirmitie & payne that I sustained by s^d wound & Loss of blood.

fo^r yo^r Hon^{rs} yo^r Humble seru^t shal pray

ROBERT ROGERS." — *Mass.*

Archives, vol. 71, p. 340.

With his petition Rogers filed the following certificate and depositions:—

"These May Certifie whome it May Concerne that Robert Rogers of Rowley being one of Rowley Troopers y^t was in y^e service at Dunstable was wounded July y^e 3^d 1706. & was vnder y^e Chirurgians hand at Billerica til y^e 15th day of y^e sayd moneth when he Came home & was vnder Docter Bennets Cure a Considerable time: & haueing lost much blood by y^e wound; was not able as wee vnderstood by him to labor for aboue a moneths time & we heard him Complaine of Great Inability to attend his Caleing some moneths after: & his Countenance by Reason of his Loss of blood did discover what he sayd of his being Infirme some moneths after he was wounded. as witness our hands

Rowly y^e 14th April 1707.

JOHN PETERSON Cap^t

EZEKIEL NORTHEND Corn^t

The Testimony of David Bennet Chirurgioⁿ relating to y^e aboves^d Information Concerning s^d Robert Rogers with Respect to his being under my Cure & directions for the Repair of his health is the truth: & fear y^t he hath not yet Reconer^d the loss of his blood at y^t time: besides the long smart y^t he endured before he was Cured of his wound
witness my hand.

DAVID BENNET

william Bennet testifies to s^d Rogers his expence & time vnder his Fathers Cure

WILLIAM BENNET." — *Ibid.*,

p. 342.

This petition was read in the House on the fourth of December, and on the same day the resolve which constitutes this chapter was passed and sent to the Council, for concurrence. On the next day it was read and concurred in, and consented to by the Governor.

* Chapter 94, *post*.

The order in Council * for the payment of this allowance was passed December 10, 1707, and the province treasurer's account † shows that it was paid.

See chapter 119 of the resolves of 1706-7 and note.

Chap. 92. This chapter is from archives, vol. 121, p. 128. It is recorded in council records, vol. VIII., p. 345.

The following account presented by Griffin was read in the House December 2, 1707, and referred to a committee, who reported the resolve as it appears in the printed chapter, where, also, the subsequent proceedings appear:—

“An akount of worck dun for tha komntrey by John Greffing at hanarill fary			
march	9=17=	captin willum ting with thirty seven men with him	0 — 6 ^s — 8 ^d —
July	1=1706:	captin John persan of rowly with his trup of forty seven men	1 [£] = 3 ^s — 8
		and thre of them back a gain	0 — 1 — 6
July	6=1706	captin John whippell of ipswich with forty five men and horsis	1 [£] = 2 ^s — 6 ^d —
July	9=1706	left simon wood of ipswich with twenty fiv men	0 = 3 ^s — 4 ^d —
July	9=1706	John louet of salum with sixteen men	0 — 2 — 8 —
July	15=1706	captin hanary somosbe with thirty aight men and horsis	0 — 19 — 0
June	4=1707	willum chandler with a leuen men	0 — 1 — 10 —
June:	11=1707	captin turner of salum with forty five men and horsis	1 = 2 = 6 —
June:	30=1707	captin harrick with thirty one men and horsis ouer the fary and twenty seven back:	1 = 9 = 0 —
July	18=1707	captin whippell of ipswech with thirty nine men and horsis and came back tha 28 of iune	1 = 19 — 0 —
agust	1=1707	captin iohn pearson with forty five men and horsis and back a gain tha tenth of iune	2 = 5 — 0 —
agust	26: 1707	captin turner with thirty nine men and horsis	0 = 19 = 6 —
september	27: 1707:	captin whippell with thirty men and horsis	:0 = 15 — 0 —
october	22: 1707	captin hereck with forty tow men and horsis forth and back	:2 = 2 = 0 —
			15 = 11 = 8.”

— *Mass. Archives, vol. 121, p. 127.*

The order in Council * for the payment of the allowance granted by this chapter was passed December 10, 1707.

As to the payment by the province treasurer, see note to chapter 78, *ante*.

Chap. 93. This chapter is from council records, vol. VIII., p. 345. It has not been found in the archives.

Although the account mentioned in the preamble to this chapter has not been found some idea of the burden to which Boston was subjected in supporting refugees from the frontiers, who had been reduced to poverty by the inroads of the enemy, may be got from the vote of the town given in the note to chapter 29, *ante*, and further inferred from the relief subsequently afforded to the inhabitants by the Legislature. The local records show that thirteen hundred pounds were this year assessed on them and their estates in the town “for the reliefe of the poor and the defraying other necessaryes arising in and for S^d Town.” †

The order in Council * for the payment of this allowance was passed December 10, 1707, and the province treasurer's account § shows that it was paid.

Chap. 94. This chapter is from archives, vol. 58, p. 263. It is recorded in council records, vol. VIII., p. 345.

The proposal of the Council, with the vote thereon which constitutes this chapter, did not, at first, embrace the final clause or condition of the first paragraph, requiring the president to devote himself entirely to the duties of his office. Therefore the House voted a nonconcurrence; but a message having been sent to them from the Board, apparently indicating their readiness to consent to the insertion of such a clause, the House withdrew || their nonconcurrence, and the vote was carried.

According to Sewall ¶, some desired to have it expressly “put in the Bill that Mr. Leverett Lay down all his Civil offices; as Judge of Probat, and judge of the Superiour Court,”

* Executive Records of the Council, vol. 4, p. 499.

† *Mass. Archives, vol. 123, p. 29.*

‡ Town Records, 1700-1728, p. 44; and see, also, resolves, 1703-4, chapter 95; 1704-5, chapter 114, and 1706-7, chapters 103 and 140.

§ *Mass. Archives, vol. 123, p. 28.*

|| Sewall thus obscurely states the fact:—

“Dec^r 5. [1707.] . . . A Message is sent in to the Deputies about the College; whereupon they withdraw their Non-concurrence; rise out (Non) and turn it to Concur’d; And vote Mr. Leverett a Salary of One Hundred and Fifty pounds per annum out of the publick Treasury.” — *Diary, vol. II., p. 205.*

The original vote on file clearly shows the obliteration which Sewall mentions.

Again, on the 6th, after mentioning a desire of some for the inserting of a clause obliging Leverett to resign all his civil offices, as quoted above, he adds, “And entirely to attend that service, was inserted, and Mr. Secretary carried it in to the Deputies, and took their Consent.” — *Ibid.*

¶ *Ibid.*

but the clause as printed proving satisfactory, the further vote fixing the salary at one hundred and fifty pounds was added, and this chapter was agreed to, and consented to by the Governor.

Towards the end of December the installation of the new president began to be looked forward to as a near event.* On the eighth of January, 1707-8, "His Excellency intimated a Council to sit at Cambridge, upon Wednesday the fourteenth current for the affair of the Colledge and investiture of the president elect. And directed that the Gentlemen of the Council living at Charlestown, Salem and Ipswich, M^r Speaker and the Representatives of the near Towns, and the Ministers of Boston, Charlestown, Cambridge Watertown, Roxbury and Dorchester be notified thereof and desired to give their presence at the Colledge, at the time."†

Of this act of the Governor, and of the proceedings on the fourteenth, Sewall gives the following particular account:—

"Jan^y 8. 170⁷. The Gov^r appoints a Council to meet at Cambridge the 14th Inst for the Installment of Mr. Leverett: warns the Ministers of the Six Towns mention'd to be overseers of the College. Midweek, Jan^y 14. 170⁷. Went to Cambridge in Mr. Brigg's Coach, with Col. Townsend, Mr. Bromfield, and Mr. Stoddard. Mr. E^m Hutchinson went in his own Charet, taking Mr. Wadsworth with him. Capt. Belchar carried Mr. Secretary in his Calash. Mr. Pemberton carried his Bro^r in his Slay over the Ice; Mr. Mico carried Mr. Treasurer Brattle. Mr. Colman there. Maj^r Gen^l Winthrop, Col. Elisha Hutchinson, Mr. Foster, Mr. Sergeant, Dr. Mather, Mr. Cotton Mather, Mr. Bridge, Mr. Allen were not there. The day was very pleasant; Col. Phillips, Mr. Russel in his black cap, Col. Lynde met us from Charlestown; Mr. Bradstreet, Angier, there, Mr. Woodbridge of Meadford, Mr. Neh. Hobart. In the Library the Governour found a Meeting of the Overseers of the College according to the old Charter of 1650, and reduced the Number to seven; viz. Mr. Leverett President, Mr. Neh. Hobart, Mr. W^m Brattle, Mr. Ebenezer Pemberton, Mr. Henry Flint, Mr. Jonathan Remington, Fellows; Mr. Tho. Brattle, Treasurer. The Gov^r prepar'd a Latin Speech for installment of the President. Then took the President by the hand and led him down into the Hall; The Books of the College Records, Charter, Seal and Keys were laid upon a Table running parallel with that next the Entry. The Gov^r sat with his back against a Noble Fire; Mr. Russel on his Left Hand inmost, I on his Right Hand; President sat on the other side of the Table over against him. Mr. Neh. Hobart was called, and made an excellent Prayer; Then Joseph Sewall made a Latin Oration. Then the Gov^r read his Speech, and (as he told me) mov'd the Books in token of their Delivery. Then President made a short Latin Speech, importing the difficulties discouraging, and yet that he did Accept: Gov^r spake further, assuring him of the Assistance of the Overseers. Then Mr. Edward Holyoke made a Latin Oration, standing where Joseph did at a Desk on the Table next the Entry at the inside of it, facing the Gov^r Mr. Danforth of Dorchester pray'd. Mr. Paul Dudley read part of the 132 ps. in Tate and Brader's version, Windsor Tune, clos'd with the Hymn to the Trinity. Had a very good Dinner upon 3 or 4 Tables: Mr. Wadsworth crav'd a Blessing, Mr. Angier Return'd Thanks. Got home very well. *Laus Deo.*"—*Diary, vol. II., p. 208.*

The official record is as follows:—

"Jan. 14, 1707-8. The Fellows and Overseers of the Colledge with the Scholars and diverse Gentlemen from the several parts, attending the solemnity, His Excellency Instated Mr. John Leverett, in the Office of President of the Colledge, delivering him the Key's, Books, Seal, Instrum^{ts} and writings to the Colledge belonging, & directed him to take the care and Government of that house and the Schollars there, with duty and Allegiance to our Sovereign Lady the Queen, and obedience to Her Maj^{ty}'s Laws."‡—*Executive Records of the Council, vol. 4, p. 519.*

Instead of immediately resigning his offices, as required in the amendment first proposed, the records show that Leverett acted as judge of probate as late as July 22, 1708.

An order was passed in Council,§ April 20, 1708, for a warrant to pay to Leverett thirty-seven pounds ten shillings, being the first instalment of his salary as president, and the province treasurer's account|| shows that it was paid.

Chap. 95. This chapter is from council records, vol. VIII., p. 346. It has not been found in the archives.

The representatives seem not to have been moved by the suggestion of the Council in regard to their "augmentation"¶ of the Governor's salary, and Dudley still maintained the reticence he had shown ever since the address of the Legislature was forwarded to the queen.

He again accepted the customary allowance from the Legislature,—he and his sympathizers looking upon it as a gift, and not as any part of his salary, which he considered in abeyance until the Legislature should make permanent provision for a stated remuneration of his services.

Sewall, who as one of the judges was in a similar predicament with regard to the permanency of his salary,** thus comments on this last donation to the Governor:—

* Letter to Mr. Samuel Shepard at Woodbridge, New Jersey, December 29, 1707.—Sewall's Letter-Book, vol. I., p. 356.

† Executive Records of the Council, vol. 4, p. 519.

‡ "Cambridge, Jan. 14. The Reverend Mr. John Leveret was this Day declared President of Harvard Colledge in this Place, by his Excellency the Governour, and the care of that Seminary put into his hands, agreeable to the Choice of the Fellows of the House, and Votes of the Council & Assembly in their Last Session, in the room of the Reverend Mr. Samuel Willard Late, President Deceased."—*Boston News-Letter, No. 196. January 12 to 19, 1707-8.*

§ Executive Records of the Council, vol. 4, p. 564.

¶ Mass. Archives, vol. 122, p. 308.

|| See the message from the Council, July 13, 1706, in note to chapter 46 of the resolves of 1706-7.

** See note to chapter 33 of the resolves of 1704-5.

"Decr 6. [1707.] . . . Gov^r has Two Hundred pounds given him . . ." — *Diary, vol. II., p. 203.*

The order in Council* for the payment of the allowance granted by this chapter was passed December 10, 1707. As to the payment by the province treasurer, see note to chapter 14, *ante*.

Chap. 96. This chapter is from council records, vol. VIII., p. 346. It has not been found in the archives.

The order in Council† for the payment of the allowance granted by this chapter was passed December 10, 1707, and the province treasurer's account‡ shows that it was paid.

Chap. 97. This chapter is from council records, vol. VIII., p. 346. It has not been found in the archives.

The order in Council* for the payment of the allowance granted by this chapter was passed December 10, 1707, and the province treasurer's account‡ shows that it was paid.

Chap. 98. This chapter is from archives, vol. 58, p. 264. It is recorded in council records, vol. VIII., p. 346.

Willard's widow (and second wife, Eunice, daughter of Edward Tyng), and Simon, his youngest son by his former wife, were appointed administrators on his estate, October 8, 1707.

The order in Council† for the payment of the allowance granted by this chapter was passed December 10, 1707, and the province treasurer's account‡ shows that it was paid.

See notes to chapters 90 and 94, *ante*.

Chap. 99. This chapter is from council records, vol. VIII., p. 346. It has not been found in the archives.

The order in Council† for the payment of the allowance granted by this chapter was passed December 10, 1707.

As to the payment by the province treasurer, see note to chapter 20, *ante*.

Chap. 100. This chapter is from council records, vol. VIII., p. 346. It has not been found in the archives.

The order in Council† for the payment of the allowances granted by this chapter was passed December 10, 1707, and the province treasurer's account§ shows that they were paid.

Chap. 101. This chapter is from archives, vol. 11, p. 238. It is recorded in council records, vol. VIII., p. 346.

The following is Hunt's petition:—

"To his Excellency Joseph Dudley Esq^r Cap^t General and Governour in Chief in & over her Maj^{ties} Province of the Massachusetts-Bay and To the Hon^{ble} her Majesties Council for said Province And To the Hon^{ble} House of Representatives now in General Court assembled.—

The Petition of Samuel Hunt Clerk

Sheweth

That your Petitioner has served as Minister att Dunstable ever since the 4th September 1706, having received a Signification from this Hon^{ble} Board under the hand of Mr Secretary Addington that the same was desired by your EX^{cy} and Hon^{rs} Intimating withall that your Petitioner should have the same Encouragement as formerly, (or better) which your Petitioner understood to be the same he had att Caseo Bay, which was fifty two pounds p^r Annu^m: and his Board. And on the 23^d of April last past your Petitioner was dismiss from that service in order to go to Port Royal, wh^{er} he had served Thirty three weeks at Dunstable aforesaid for which your Petitioner, has not yet received any Salary.

Yo^r Petitioner therefore humbly Prays. yo^r Excellency and Hon^{rs}: That he may have such Salary allowed & paid him as is usual in such Cases, & as to yo^r EX^{cy} & Honours shall seem meet/.

And yo^r Petitioner shall pray &c^a

SAM^l HUNT." — *Mass.*

Archives, vol. 11, p. 238.

This petition was read, first, in the Council, and sent to the representatives with a recommendation.

With this petition was filed the following letter from Secretary Addington:—

"Boston 1st Septemb^r 1706.

Sr.

I am Ordered by his Excell^{cy} the Govern^r and Council to Acquaint you That your service as minister at Dunstable is Acceptable to them, and desire the Continuance thereof.

And that they will Endeavour to promote your Encouragement by the General Assembly as formerly, and hope they will be prevailed with to make it better.

I am. Sr.

Your humble Serv^t

Is^t ADDINGTON." — *Ibid.*,

p. 239.

The papers were read in the House December 5, 1707, and the resolve which constitutes this chapter was passed and sent to the Council, for concurrence. On the sixth it was concurred in, and consented to by the Governor.

* Executive Records of the Council, vol. 4, p. 496.

† *Ibid.*, p. 497.

‡ *Mass. Archives*, vol. 123, p. 26.

§ *Ibid.*, p. 27.

The order in Council* for the payment of the allowance granted by this chapter was passed December 10, 1707, and the province treasurer's account† shows that it was paid.

Chap. 102. This chapter is from archives, vol. 71, p. 446. It is recorded in council records, vol. VIII., p. 346.

The ill success of the expedition against Port Royal was attributed by some to the extraordinary commission for conducting military operations which had been devised by Dudley to avoid an implied rebuke of the General-in-Chief and, at the same time, to bring order and harmony out of the discord and total disregard for military discipline which had suddenly become manifest in the little army in Acadia.

When, therefore, the subject of compensating the commissioners, the Engineer Redknap, and the Governor's son (the youthful Secretary of War), came up for consideration in the House, on motion of the Council, an adverse answer was explicitly given to the question of voting an allowance of wages to either of these personages. The following is a copy of the vote thus given:—

“In the House of Representatives. Nov^r 25: 1707.

The following Questions being severally put. viz^t

Qv: Whether any thing be allowed as wages to the Commissioners that Comanded the late Expedition to Nova Scotia?

Qv: Whether, any thing to the Engineer Col: Redknap?

Qv: Whether any thing to the secretary of War M^r William Dudley?

They all Pass'd in the negative

JOHN BURNELL Speak^r.”—*Mass.*

Archives, vol. 71, p. 445.

A committee of the Council was sent to urge the House to reconsider their vote. Of the constitution of this committee, and the arguments used by them to persuade the House to recede from their vote, Sewall gives the following account:—

“Decr 6. [1707.] Col. Jn^o Appleton, Hunt and I are sent in to speak to the Deputies about their denying any Reward to the commissioners to Port-Royal; Told them, denying all Remmeration was in a maner to make them Criminals: Twas a burden God in his providence had laid on us, and to go about thus to shake it off, would be to his Dishonor. . . .”—*Diary, vol. II., p. 205.*

The arguments of the councillors so far prevailed that on the same day the House passed the order which constitutes this chapter, and sent it to the Council, for concurrence.

* Executive Records of the Council, vol. 4, p. 499.

† *Mass. Archives*, vol. 123, p. 26.

SUPPLEMENT.

A statement of the "first proposition" of Edmund Dummer,* mentioned in the note † to chapter 70 of the resolves of 1706-7, after the scheme had been in practical operation for three years, with the success he anticipated, was published by him on one side of a sheet, printed from an engraved plate, together with an "observation" calling attention to a table on the reverse side giving the names of the several packets run, of the date and place of their departure and arrival, the time consumed in making their several voyages, and particulars of delaying or preventing accidents.

By the courtesy of Mr. Walter K. Watkins the Editor is enabled to here reprint this interesting document as follows:—

"April 1702.

THE PROPOSITION

Which was first laid down & presented, to evince a Probability of maintaining a Monthly Correspondence with all the English-Island Plantations in America, and the Advantages to England, if made Practicable.

It was propounded in the following Manner; Namely.

That if Four Vessels did Sail from England to the West-Indies in a Course of Succession Monthly, and that each Vessel should perform her Voyage in a 100 days or thereabout, that after the first should have perform'd, then the Procession, Return and Expence of Time of each and every of the said Vessels successively would be equal continually: if no Accident prevented the same; which was demonstrated by the Underwritten Scheme.

Let A B C D be put for four Vessels, and be it suppos'd that the first of them Went from England y^e 1st January, Viz:

A	_____	January	_____	The first three months expence of Time at Sea before A returns.
B	_____	February	_____	
C	_____	March	_____	
D	_____	April	A	
A	_____	May	B	Returns back from the West Indies
B	_____	June	C	
C	_____	July	D	
D	_____	August	A	
A	Sails to the West Indies in	September	B	
B	_____	October	C	
C	_____	November	D	
D	_____	December	A	
A	_____	January	B	
B	_____	February	C	
C	_____	March	D	
D	_____	April	A	

It is therefore hereby plain, that if A did go away in the beginning of January and did return in April; and that B C & D did in a Monthly Succession constantly follow, Then A B C & D Necessarily will go out & come home from all the Islands in the same Proportion of Time continually.

For if A Sails in January, and Returns back in April, and B Sails in February and Returns back in May, in which Month A proceeds again to the West-Indies; Then after y^e first three Months are expir'd (as in the Scheme) One Vessel will go out, and another Vessel will Return home every Month continually, if by no Casualty prevented.

It was then Added,

That if this Correspondence be establish'd, all the incident Occasions of State and Trade would be effectually answer'd, and the Practice thereof would infallibly introduce New and very Great Advantages to the Publick true Interest depending between this Kingdom & those Islands in Peace & War: For Time sav'd and the earliest Knowledge of things gain'd, afford the best Means of Success in all Designs whatever. Order'd to be put in Practice 20 Aug. 1702.

The Authors Observation.

That Her Maj^{ty} having been pleas'd to put the above Proposition into Practice, it now appears by a View of the Voyages, as they stand in order perform'd on the other side, that his Supposition thereof is in Fact answer'd, tho' at first thought impracticable by many of the Best Seamen in England.

Publish'd, 1st Oct. 1705 by E. D.

* Edmund Dummer was baptized at North Stoneham in Hampshire, England, August 28, 1651. He was for some time at Chatham, and later in London, "near the Tower." Besides holding other places in the royal service, he was appointed surveyor to the king's navy June 25, 1692. He was buried at St. Andrew's, Holborn, May 8, 1716. By his wife Sarah, whom he survived more than two years and who was buried at St. Margaret's, he had two daughters and one son. He outlived the son and one of the daughters—possibly both. From the loss of the parish and other local records his family history is obscure but there are circumstances which indicate that probably he was a kinsman of Richard Dummer of Newbury.

† See page 623, *ante*.

AN ABSTRACT

Of the Course and Success of the West-India Packets, put in practice upon the Principles of the Scheme on the other side, shewing how nearly the same hath answer'd, & w^t Accidents have Happen'd therein, since the going out of the first Vessel in Oct^r 1702. which will be understood by the following Notes Viz^t

a b c d { Denote those Packet Boats { 110 to 130 Tuns } By Agency
 { w^{ch} were first Employ'd of { 8 to 12 Guns } under the
 { With single Decks }

And how many times each letter is express'd so many times that Vessel went to the West-Indies.

e and f { Bought to begin on the Terms { e 90 Tuns 8 Guns
 { of the Contract. { f 132 Tuns 10 Guns

Post-
Master
Generall.

A B C D E Denote those which are { of 200 Tuns } by Contract
 now New Built on purpose { 20 Guns } with the
 { Two Decks. }

The whole Term of a Voyage was propounded to be 100 Days Out and Home or thereabout; within which Time each Vessel was to stay at

Barbados	_____	3	Days & nights
Antego	_____	2	Days & nights
Monserat	_____	1½	Day
Nevis	_____	1½	Day
St Christophers	_____	1½	Day
Jamaica	_____	10	Days & nights
		<hr/>	
		19½	Days

The Voyages were perform'd as follows.

	Packets Names	No of Voy-ages	Sailed from Engl ^d		Year	Arriv'd in Engl ^d		No of Days Out & Home	Accidents.	Under the Agency and the Contract.
			Whence	When		Where	When			
a	Bridgman	1	Needles	21 Oct.	1702	Falm ^o	2 Feb.	104	{ Taken the 27 July near Scilly coming home met with great Calmes.	Under y ^e Agency the Queen running all the Risque.
b	Mausbridge	2	Plym ^o	18 Dec.	D ^o	Plym ^o	10 Mar.	92		
c	K William	3	Falm ^o	30 Jan.	D ^o	Falm ^o	16 May	106		
a	Bridgman	4	D ^o	4 Apr.	1703				{ Put into Ireland by Violence of the Weather.	
b	Mausbridge	5	D ^o	9 May.	D ^o	Moimt ^s bay	17 Aug	100		
c	K William	6	D ^o	30 Jun.	D ^o	D ^o	8 Oct	100		
d	Prince	7	D ^o	3 Aug.	D ^o	D ^o	13 Nov.	102	{ Taken the 15 following off y ^e Lizard the day after she sail'd By reason of Violent and contrary Winds forc'd into Scilly & spent 50 days from Jamaica home.	
b	Mausbridge	8	D ^o	25 Sept.	D ^o	St Ives	19 Jan.	116		
c	K William	9	D ^o	12 Dec.	D ^o	Falm.	26 Mar	104		
d	Prince	10	D ^o	6 Jan.	D ^o	D ^o	19 Apr.	103	{ Taken 12 April between Nevis and Monserrat Stai'd 12 days more then Time at Jamaica by contrary and Stormy Winds.	
b	Diligence	11	St Ives	19 Apr.	1704	Penzance	1 Aug.	104		
d	Prince	12	Falm ^o	1 Jun.	D ^o	Plym ^o	6 Sept.	97		
c	K William	13	D ^o	22 Jul.	D ^o	Falm ^o	7 Nov.	108	{ Taken 12 April between Nevis and Monserrat Stai'd 12 days more then Time at Jamaica by contrary and Stormy Winds.	
b	Diligence	14	D ^o	14 Sept.	D ^o	D ^o				
d	Prince	15	D ^o	13 Oct.	D ^o	D ^o	6 Feb.	116		
c	K William	16	Plym ^o	3 Jan.	D ^o	D ^o	14 Apr.	101	{ Taken 12 April between Nevis and Monserrat Stai'd 12 days more then Time at Jamaica by contrary and Stormy Winds.	
e	Cotton	17	D ^o	4 Mar.	D ^o					
d	Six Islands	18	D ^o	8 Apr.	1705	St Ives.	31 July.	114		
f	Frankland	19	D ^o	19 May.	D ^o	Falm ^o	29 Aug	102	{ Xber } Next y ^e latter end of { Jan'y }	Under Contract the Queen running no Risque.
A	Queen Anne	20	D ^o	14 Jun.	D ^o	Plym ^o	27 Sept	105		
B	Jamaica	21	D ^o	19 Sept	D ^o	Plym ^o	Expected home			
C	Barbados	22	D ^o	13 Oct	D ^o	D ^o	In her way to y ^e West Indies			
A	Queen Ann	23	D ^o	14 Nov ^r	D ^o	In her way this in onths mayle for the mayle of next month.				
D	Pr George		Ready at D ^o at Getting							
E	K. William									
E	Antegoa									

Date 1st xber 1705.

London

ERRATA AND ADDENDA.

Page 23, title of chap. 46, after "Dudley," read "for his support in managing the government."

" 31, title of chap. 64, for "to," read "of "

" 43, title of chap. 96, for "Saunders," read "Sanders."

Pages 52 and 70, titles of chaps. 114 and 15, respectively, after "Dudley," read "for and towards his support in the government."

Page 63, after "Mr. David Perkins," add "jun."

Pages 109, 132, 154, 182, 208 and 257, titles of chaps. 125, 45, 100, 46, 120 and 95, respectively, after "Dudley," read "for his support in managing the affairs of the government."

Page 117, title of chap. 3, after "Joseph Severance," add "junior."

" 175, title of chap. 27, strike out the words "provide a suitable place in which to store gunpowder in Boston," and substitute therefor the words "consider of a proper method for the safe keeping of gunpowder imported into Boston and Charlestown."

" 219, title of chap. 147, after "John Shepard," add "junior."

" 233, title of chap. 14, after "Dudley," read "for his support in managing the public affairs of the government."

" 255, title of chap. 90, for "making," read "declaring."

" 319, line 24, for "Piscataqua," read "Portsmouth."

" 331, in the fourth line of the note to chap. 36, insert "††" after the word "ascertained," and add the following foot-note: "†† But see Tuthill's petition in note to chap. 40, 1705-6."

" 382, line 8, for "captaincy," read "lieutenancy," and for "that office," read "the office."

" 386, lines 23 and 24, strike out "and chapter 33, *ante*."

" 398, in the second line of the sixth paragraph of the note to chap. 48, for "same date," read "fourteenth."

" 435, line 46, for "for," read "from."

" 469, in the fourth line of the second paragraph of the note to chap. 124, for "March 29, 1704," read "March 24, 1703-4."

" 501, line 24, for "eighth," read "fourth "

" 534, line 5 of † foot-note, "Storey" reads "Stores," in the original manuscript.

" 593, line 26, for "West Springfield," read "the west precinct."

" 631, line 13 from bottom, after "filed," read "a certificate from Doctor Prescott, junior."

" 653, line 46, for "appellee," read "appellant."

" 691, under "Commissaries;" page 723, lines 23 and 25; and page 724, line 67, for "Jeffries," read "Jeffry."

" 776, in the first line of the fourth paragraph of the note to chap. 84, after "preacher," insert "after serving for awhile as the first minister in Amesbury."

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